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<b>State:</b>	District of Columbia	<b>Filing Company:</b>	Hiscox Insurance Company Inc.
<b>TOI/Sub-TOI:</b>	17.0 Other Liability-Occ/Claims Made/17.0000 Other Liability Sub-TOI Combinations		
<b>Product Name:</b>	C-Suite Maintenance Filing		
<b>Project Name/Number:</b>	/		

## Filing at a Glance

Company:	Hiscox Insurance Company Inc.
Product Name:	C-Suite Maintenance Filing
State:	District of Columbia
TOI:	17.0 Other Liability-Occ/Claims Made
Sub-TOI:	17.0000 Other Liability Sub-TOI Combinations
Filing Type:	Form
Date Submitted:	02/13/2020
SERFF Tr Num:	HISC-132246170
SERFF Status:	Submitted to State
State Tr Num:	
State Status:	
Co Tr Num:	HIC-CSU-20-01
Effective Date Requested (New):	
Effective Date Requested (Renewal):	
Author(s):	Nicole Todini, Jennifer Percarpio, Robin Gubran, Tara Martin, Selena Hill
Reviewer(s):	
Disposition Date:	
Disposition Status:	
Effective Date (New):	
Effective Date (Renewal):	

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## General Information

Project Name: Status of Filing in Domicile:  
 Project Number: Domicile Status Comments:  
 Reference Organization: Reference Number:  
 Reference Title: Advisory Org. Circular:  
 Filing Status Changed: 02/13/2020  
 State Status Changed: Deemer Date:  
 Created By: Tara Martin Submitted By: Tara Martin  
 Corresponding Filing Tracking Number:

### Filing Description:

Hiscox Insurance Company, Inc. ("Hiscox") is respectfully submitting for your review and approval new and revised endorsements for use with its currently filed and approved C-Suite program.

Enclosed for your review:

- CSUEPL P0001A CW (02/20) - EPL Coverage Part
- CSUDON P0001A CW (02/20) - Nonprofit D&O Coverage Part
- CSUDON P0002A CW (02/20) - Healthcare D&O Coverage Part
- CSUDON P0003A CW (02/20) - Public Officials Liability Coverage Part
- CSUDON P0004A CW (02/20) - Educators Legal Liability Coverage Part
- CSUDOP P0001A CW (02/20)- Private D&O Coverage Part
- CSUDOP P0002A CW (02/20) - Portfolio Company D&O Coverage Part
- CSUDOP P0003A CW (02/20) - Healthcare D&O Coverage Part
- CSUELW P0001A CW (02/20) - Employed Lawyers Coverage Part
- CSUFLI P0001A CW (02/20) - Fiduciary Coverage Part
- CSU A0001A CW (04/19) - C-Suite APPLICATION (New Business) - MANAGEMENT LIABILITY
- CSU A0002A CW (04/19) - C-Suite APPLICATION (Renewal) - MANAGEMENT LIABILITY
- CSU E2516 CW (01/19) - Listed Insured Person(s) (Presumptive Indemnification)
- CSU E2532 CW (01/19) - Additional Entity Coverage (With Continuity Date)
- CSU E2533 CW (01/19) - Additional Entity Coverage (With Sublimit, Co-Defendant Coverage, Continuity Date)
- CSU E2587 CW (04/19) - Optional Duty to Pay (With Pre-Approved Counsel When Duty to Pay) EPL
- CSU E2616 CW (08/18) – Discovery Period Elected (With Winding Up Coverages)
- CSU E2655 CW (08/18) - Sexual Misconduct-Child Abuse Exclusion (Harassment Carveback)
- CSU E2694 CW (10/18) - Exercise Discovery Period (Straddle Language)
- CSU E2697 CW (06/19) - Optional Duty to Pay (Pre-Approved Counsel Retention Reduction Incentive)
- CSU E2698 CW (07/19) - Tie-In of Limits (ESOP)
- CSU E2699 CW (09/19) - Returned Premium for Specified Endorsement(s)
- CSU E2700 CW (09/19) - Additional Premium for Specified Endorsement(s)
- CSU E2701 CW (09/19) - Amend Endorsement Effective Date
- CSU E2702 CW (09/19) - Reinstatement of Policy
- CSUDON E2855 CW (07/18) - Professional Services Exclusion (Failure to Supervise Carveback)
- CSUDOP E1271 CW (07/18) - Amend Antitrust Coverage Enhancement (Separate Retention and Split Limit)
- CSUDOP E2817 CW (08/17) - TCPA Defense Costs Sublimit
- CSUEPL E2863 CW (01/19) - Add Entity as Insured for Specific Location
- CSUEPL E2871 CW (11/19) - Wage and Hour Defense Sublimit with Separate Retention Endorsement

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- CSUEPL E2872 CW (11/19) - Wage and Hour Defense Sublimit with Separate Retention (Insured Retained Defense - Class Action Limitation)
- CSUEPL E2899 CW (11/19) - Wage and Hour Defense Sublimit with Separate Retention (Insured Retained Defense)
- CSUFLI E2930 CW (10/18) - Listed Plan (Separate Retention)

## Company and Contact

### Filing Contact Information

Tara Martin, Senior State Filings Analyst	Tara.Martin@hiscox.com
521 Madison Avenue, 32nd Floor	646-442-8293 [Phone]
New York, NY 10022	

### Filing Company Information

Hiscox Insurance Company Inc.	CoCode: 10200	State of Domicile: Illinois
104 South Michigan Ave.	Group Code: 4666	Company Type: P&C
Suite 600	Group Name:	State ID Number:
Chicago, IL 60603	FEIN Number: 98-6000550	
(312) 380-5555 ext. [Phone]		

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## Filing Fees

Fee Required?	No
Retaliatory?	No
Fee Explanation:	

SERFF Tracking #:

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## Form Schedule

Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
1		EPL Coverage Part	CSUEPL P0001A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUEPL P0001A CW (0220) EPL Coverage Part (clean 2-11-20).pdf, CSUEPL P0001A CW (0220) EPL Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUEPL P0001A CW (02/20)		
2		Executive Risks Management Liability Application C-Suite - New Business Application	CSU A0001A CW	(04/19)	ABE	Replaced	Previous Filing Number:	HISC-131293959		CSU A0001A CW_ C-Suite New Business Application.pdf, CSU A0001A CW_ C-Suite New Business Application (redlined).pdf
							Replaced Form Number:	CSU A0001A CW (09/17)		
3		Executive Risks Management Liability Application C-Suite - Renewal Application	CSU A0002A CW	(04/19)	ABE	Replaced	Previous Filing Number:	HISC-131293959		CSU A0002A CW_ C-Suite Renewal Business Application.pdf, CSU A0002A CW_ C-Suite Renewal Business Application (redlined).pdf
							Replaced Form Number:	CSU A0002A CW (09/17)		
4		Listed Insured Person(s) Endorsement (Presumptive Indemnification)	CSU E2516 CW	(01/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSU E2516 CW Listed Insured Person (Presumptive Indemnification).pdf, CSU E2516 CW Listed Insured Person (Presumptive Indemnification) (redlined).pdf
							Replaced Form Number:	CSU E2516 CW (07/17)		

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
5		Additional Entity Coverage Endorsement (With Continuity Date)	CSU E2532 CW	(01/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSU E2532 CW_Additional Entity Coverage (With Continuity Date).pdf, CSU E2532 CW_Additional Entity Coverage (With Continuity Date) (redlined).pdf
							Replaced Form Number:	CSU E2532 CW (07/17)		
6		Additional Entity Coverage Endorsement (With Sublimit, Co-Defendant Coverage, Continuity Date)	CSU E2533 CW	(01/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSU E2533 CW_Additional Entity Coverage (With Sublimit Continuity Date).pdf, CSU E2533 CW_Additional Entity Coverage (w. sublimit Co Defendant).pdf
							Replaced Form Number:	CSU E2533 CW (07/17)		
7		Optional Duty to Pay Endorsement (With Pre-Approved Counsel When Duty to Pay) EPL	CSU E2587 CW	(04/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSU E2587 CW_Optional Duty to Pay (W. Pre-Approved Counsel).pdf, CSU E2587 CW_Optional Duty to Pay (W. Pre-Approved Counsel) (redlined).pdf
							Replaced Form Number:	CSU E2587 CW (07/17)		

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
8		Discovery Period Elected (With Winding Up Coverage)	CSU E2616 CW	(08/18)	END	Replaced	Previous Filing Number:	HISC-131293959		CSU E2616 CW (0818)_Discovery Period Elected (With Wind Up Coverage) (Clean).pdf, CSU E2616 CW_Discovery Period Elected (With Wind Up Coverage) (redlined).pdf
							Replaced Form Number:	CSU E2616 CW (07/17)		
9		Sexual Misconduct/Child Abuse Exclusion Endorsement (Harassment Carveback)	CSU E2655 CW	(08/18)	END	Replaced	Previous Filing Number:	HISC-131543856		CSU E2655 CW_Sexual Misconduct Child Abuse Exclusion (Harassment Carveback).pdf, CSU E2655 CW_Sexual Misconduct Child Abuse Exclusion (Harassment Carveback) (redlined).pdf
							Replaced Form Number:	CSU E2655 CW (03/18)		
10		Exercise Discovery Period Endorsement (Straddle Language)	CSU E2694 CW	(10/18)	END	New				CSU E2694 CW_Exercise Discovery Period (Straddle Language).pdf
11		Optional Duty to Pay Endorsement (Pre-Approved Counsel; Retention Reduction Incentive)	CSU E2697 CW	(06/19)	END	New				CSU E2697 CW_Optional Duty to Pay (Pre-Approved Counsel Retention Reduction).pdf
12		Tie-In of Limits Endorsement (ESOP)	CSU E2698 CW	(07/19)	END	New				CSU E2698 CW_Tie-In of Limits (ESOP).pdf

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data	Readability Score	Attachments
13		Returned Premium for Specified Endorsement(s) Endorsement	CSU E2699 CW	(09/19)	END	New			CSU E2699 CW_Returned Premium for Specified Endorsement.pdf
14		Additional Premium for Specified Endorsement(s) Endorsement	CSU E2700 CW	(09/19)	END	New			CSU E2700 CW_Additional Premium for Specified Endorsement(s).pdf
15		Amend Endorsement Effective Date Endorsement	CSU E2701 CW	(09/19)	END	New			CSU E2701 CW_Amend Endorsement Effective Date.pdf
16		Reinstatement of Policy Endorsement	CSU E2702 CW	(09/19)	END	New			CSU E2702 CW_Reinstatement of Policy.pdf
17		Professional Services Exclusion Endorsement (Failure to Supervise Carveback)	CSUDON E2855 CW	(07/18)	END	New			CSUDON E2855 CW_Professional Services Exclusion (Failure to Supervise Carveback).pdf
18		Amend Antitrust Coverage Enhancement Endorsement (Separate Retention and Split Limit)	CSUDOP E1271 CW	(07/18)	END	New			CSUDOP E1271 CW_Amend Antitrust Coverage Enhancement (Separate Retention and Split Limit).pdf

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
19		TCPA Defense Costs Sublimit Endorsement	CSUDOP E2817 CW	(08/18)	END	Replaced	Previous Filing Number:	HISC-131293959		CSUDOP E2817 CW_TCPA Defense Costs Sublimit.pdf, CSUDOP E2817 CW_TCPA Defense Costs Sublimit (Redlined).pdf
							Replaced Form Number:	CSUDOP E2817 CW (07/17)		
20		Add Entity as Insured for Specific Location Only Endorsement	CSUEPL E2863 CW	(01/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSUEPL E2863 CW_Add Entity as Insured for Specific Location Only.pdf, CSUEPL E2863 CW_Add Entity as Insured for Specific Location Only (redlined).pdf
							Replaced Form Number:	CSUEPL E2863 CW (07/17)		
21		Wage and Hour Defense Sublimit with Separate Retention Endorsement	CSUEPL E2871 CW	(11/19)	END	Replaced	Previous Filing Number:	HISC-131293959		CSUEPL E2871 CW Wage and Hour Defense Sublimit with Separate Retention (clean 11-13-19).pdf, CSUEPL E2871 CW Wage and Hour Defense Sublimit with Separate Retention (redlined 11-13-19).pdf
							Replaced Form Number:	CSUEPL E2871 CW (07/17)		
22		Wage and Hour Defense Sublimit with Separate Retention Endorsement (Insured Retained Defense - Class Action Limitation)	CSUEPL E2872 CW	(11/19)	END	New				CSUEPL E2872 CW Wage and Hour Claim Defense Sublimit with Separate Retention ) (clean 11-13-19).pdf



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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
23		Wage and Hour Defense Sublimit with Separate Retention Endorsement (Insured Retained Defense)	CSUEPL E2899 CW	(11 /19)	END	New				CSUEPL E2899 CW_Wage and Hour Def Sub w Separate Ret (Insured Retained Defense).pdf
24		Listed Plan Endorsement (Separate Retention)	CSUFLI E2930 CW	(10/18)	END	New				CSUFLI E2930 CW_Listed Plan(Separate Retention).pdf
25		Nonprofit D&O Coverage Part	CSUDON P0001A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDON P0001A CW (0220) Nonprofit DO Coverage Part (clean).pdf, CSUDOP P0001A CW (0220) Private DO Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUDON P0001A CW (07/17)		
26		Healthcare D&O Coverage Part	CSUDON P0002A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDON P0002A CW (0220) Nonprofit Healthcare DO Coverage Part.pdf, CSUDON P0002A CW (0220) Nonprofit Healthcare DO Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUDON P0002A CW (07/17)		

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
27		Public Officials Liability Coverage Part	CSUDON P0003A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDON P0003A CW (0220) Public Officials Liability Coverage Part (clean).pdf, CSUDON P0003A CW (0220) Public Officials Liability Coverage Part (redline).pdf
							Replaced Form Number:	CSUDON P0003A CW (07/17)		
28		Educators Legal Liability Coverage Part	CSUDON P0004A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDON P0004A CW (0220) Educators Legal Liability Coverage Part (clean).pdf, CSUDON P0004A CW (0220) Educators Legal Liability Coverage Part (redline).pdf
							Replaced Form Number:	CSUDON P0004A CW (07/17)		
29		Private D&O Coverage Part	CSUDOP P0001A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDOP P0001A CW (0220) Private DO Coverage Part.pdf, CSUDOP P0001A CW (0220) Private DO Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUDOP P0001A CW (07/17)		

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Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data		Readability Score	Attachments
30		Portfolio Company D&O Coverage Part	CSUDOP P0002A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDOP P0002A CW (0220) Portfolio Company DO Coverage Part (clean).pdf, CSUDOP P0002A CW (0220) Portfolio Company DO Coverage Part (redline).pdf
							Replaced Form Number:	CSUDOP P0002A CW (07/17)		
31		Healthcare D&O Coverage Part	CSUDOP P0003A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUDOP P0003A CW (0220) Healthcare DO Coverage Part (clean).pdf, CSUDOP P0003A CW (0220) Healthcare DO Coverage Part (redline).pdf
							Replaced Form Number:	CSUDOP P0003A CW (07/17)		
32		Employed Lawyers Coverage Part	CSUELW P0001A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUELW P0001A CW (0220) Employed Lawyers Coverage Part.pdf, CSUELW P0001A CW (0220) Employed Lawyers Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUELW P0001A CW (07/17)		

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33		Fiduciary Coverage Part	CSUFLI P0001A CW	(02/20)	PCF	Replaced	Previous Filing Number:	HISC-131293959		CSUFLI P0001A CW (0220) Fiduciary Coverage Part.pdf, CSUFLI P0001A CW (0220) Fiduciary Coverage Part REDLINE.pdf
							Replaced Form Number:	CSUFLI P0001A CW (07/17)		

**Form Type Legend:**

<b>ABE</b>	Application/Binder/Enrollment	<b>ADV</b>	Advertising
<b>BND</b>	Bond	<b>CER</b>	Certificate
<b>CNR</b>	Canc/NonRen Notice	<b>DEC</b>	Declarations/Schedule
<b>DSC</b>	Disclosure/Notice	<b>END</b>	Endorsement/Amendment/Conditions
<b>ERS</b>	Election/Rejection/Supplemental Applications	<b>OTH</b>	Other

### I. Insuring agreement

We will pay up to the **coverage part limit** for **loss** in excess of the **retention** resulting from covered **claims** against **you** for any actual or alleged **employment practices wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

#### Workplace violence limit

A. We will pay up to the limit stated in the Declarations, in the aggregate, for:

1. **threat expenses** incurred by an **insured organization** directly resulting from a **threat event** that takes place, in whole or in part, during the policy period stated in Item 2 of the Declarations, regardless of whether the **threat event** occurs on or off the **insured premises**;
2. **workplace violence expenses** and **business interruption expenses** incurred by an **insured organization** or **insured person** directly resulting from a **workplace violence event** that takes place on the **insured premises** during the policy period stated in Item 2 of the Declarations; and
3. **loss of life benefits** incurred by an **insured organization** directly resulting from a **workplace violence event** that takes place on the **insured premises** during the policy period stated in Item 2 of the Declarations.

No **retention** will apply to any payment we make under this subsection A, and any amounts we pay will be in addition to, and not a part of, the **coverage part limit**.

However, our obligation to make any payment under this subsection A is specifically excess of and will not contribute with any other valid and collectible insurance available to **you** for any loss which may be covered under both policies.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **wrongful acts**, **workplace violence events**, or **threat events** occurring during the course of such **management control** or sponsorship.

#### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

#### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), or member of the Board of Managers or advisory board (or equivalent position);

2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,  
but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own **employees**.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim**. Such request must be made in writing and within 90 days after the **claim** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim**.

### Affiliate

means any entity listed as such by endorsement to this policy.

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## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the **retention** on **your** behalf prior to the final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;

2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after the conclusion of a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims

- A. **You** must give written notice to **us** of any **claim** as soon as possible once such **claim** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of threat events

- C. **You** must give notice to **our** designated representative of any **threat event** as soon as possible by calling the telephone number stated in Item 6 of the Declarations.

### Notifying us of workplace violence events

- D. **You** must give written notice to **us** of any **workplace violence event** within 30 days after such **workplace violence event** takes place, but in any event no later than 30 days after the end of the **policy period**.

All such notifications must be in writing, include the following information, and be submitted to



**us** via the designated email address or mailing address stated in Item 6 of the Declarations:

1. a description of the **workplace violence event**;
2. the name(s) of any individual(s) whose conduct or act(s) resulted in the **workplace violence event**;
3. the manner in which **you** first became aware of the **workplace violence event**;
4. the nature and extent of any actual or potential bodily injury to or death of any **insured person(s)**, including the name(s) of any injured and/or deceased **insured person(s)** and supporting medical invoices and documentation; and
5. the nature and extent of any lost **business income** incurred by the **insured organization**, including documentation supporting the calculation of such **business income**.

### Related events

- E. If **you** have given notice to **us** (or **our** designated representative) of a **threat event** or **workplace violence event**, any prior or subsequent **threat events** or **workplace violence events** arising out of the same or substantially similar facts or circumstances will be deemed to have been reported at the time **you** notified **us** of the first **threat event** or **workplace violence event**, and they will all be considered a single **threat event** or **workplace violence event**.

### Proof of loss for workplace violence coverage

- F. As a condition precedent to coverage for any **threat event** or **workplace violence event**, **you** must provide a signed and sworn proof of loss to **us** stating, at a minimum, a full description of the circumstances surrounding the loss, including the time, place, cause, and detailed calculation of any **business interruption expenses**, **threat expenses**, or **workplace violence expenses**, within 90 days after any such expenses are incurred.

### Retention

- G. **Our** obligation to pay **loss** under this Coverage Part is in excess of the **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to **threat events** or **workplace violence events** under Section II. Coverage enhancements, A. Workplace violence limit.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or, in the event of the **insured organization's** bankruptcy or **insolvency**, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to claims

**We** will have no obligation to pay any sums under this Coverage Part for any **claim**:

### Bodily injury/property damage

1. for any:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to a **claim** for emotional distress or mental anguish resulting from an **employment practices wrongful act**.



Breach of contract	<p>2. based upon or arising out of any actual or alleged breach of any express contract or agreement, or any liability of others <b>you</b> assume under any express contract or agreement, except that <b>we</b> will pay <b>claim expenses</b> for an otherwise covered <b>claim</b> against <b>you</b> alleging an <b>employment practices wrongful act</b>.</p> <p>This exclusion will not apply to liability <b>you</b> would have in the absence of the express contract or agreement.</p>
Compensation violations	<p>3. based upon or arising out of any actual or alleged obligation under any workers' compensation, unemployment compensation, employee benefits, fair labor standards, labor relations, wage and hour, employee expense reimbursement, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>
Fraudulent/criminal acts	<p>4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the <b>claim</b> at issue.</p>
Prior notice/knowledge	<p>5. based upon or arising out of any actual or alleged <b>employment practices wrongful act</b> that:</p> <ol style="list-style-type: none"> <li>was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>employment practices wrongful act</b> could result in a <b>claim</b>.</li> </ol> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>employment practices wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p>
Statutory violations	<p>6. for any violation of the following laws:</p> <ol style="list-style-type: none"> <li>the Employee Retirement Income Security Act of 1974;</li> <li>the Fair Labor Standards Act (except the Equal Pay Act);</li> <li>the National Labor Relations Act or Labor Management Relations Act;</li> <li>the Worker Adjustment and Retraining Notification Act;</li> <li>the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>the Occupational Safety and Health Act; or</li> <li>the Patient Protection and Affordable Care Act,</li> </ol> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>
Wage and payroll	<p>7. based upon or arising out of any actual or alleged improper or inaccurate payroll deductions, failure to itemize, or inaccurate wage statements, unpaid wages or overtime pay (other than tort-based back pay or front pay damages for non-conversion related torts), or failure to provide or enforce legally required meal or rest breaks; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>
Workplace violence	<p>8. brought against any <b>insured</b> in connection with a <b>threat event</b> or <b>workplace violence event</b>.</p>

### Exclusions applicable to workplace violence

Exclusions 3 and 6 above, as well as the following exclusions, apply to Section II. Coverage enhancements, A. Workplace violence limit.

**We will have no obligation to pay any threat expenses, workplace violence expenses, business**

### interruption expenses, or loss of life benefits:

- |         |  |
|---------|--|
| Robbery | 9. based upon or arising out of any actual or alleged use or threat of force or violence occurring on the <b>insured premises</b> for the purpose of demanding money, securities, or property.   |
| War     | 10. based upon or arising out of any war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military, or usurped power, or confiscation, nationalization, requisition, destruction of, or damage to property by or under the order of any governmental, public, or local authority. |

For purposes of determining the applicability of exclusion 4, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. Exclusion 4 will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Business income

means:

1. the sum of:
  - a. net profit before taxes that would have been earned by **you** had no **workplace violence event** occurred;
  - b. the actual cost of continuing, on a curtailed basis, activities which are necessary for the **insured organization** to resume operations with substantially the same quality of service which existed immediately before the **workplace violence event**; and
  - c. reasonable expenses which would not have been incurred except for such **workplace violence event** and which were incurred by the **insured organization** for the sole purpose of reducing loss described in parts a and b above;
2. less the sum of:
  - a. all recoveries, insurance, suretyship, and other indemnity which would cover loss described in part 1 above in the absence of this coverage; and
  - b. the amount by which the **insured organization** fails to reduce loss described in part 1 above through any reasonable measures,
 all as sustained or incurred during the **period of restoration**.

### Business interruption expenses

means the actual lost **business income** sustained by the **insured organization** due to:

1. the actual suspension of the **insured organization's** operations; or
  2. an order by a civil or military authority prohibiting access to the **insured premises**, in whole or in part,
- during the **period of restoration**.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;

4. a formal administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a formal investigative order (or similar document), including any investigation or proceeding brought by or on behalf of the Equal Employment Opportunity Commission or any state or local equivalent;
5. an arbitration proceeding pursuant to an employment contract or a policy or practice of an **insured organization**, commenced by the service on the **insured** of a demand for arbitration (or similar document);
6. following an audit conducted by the Office of Federal Contract Compliance Program, a Notice of Violation or Order to Show Cause, or a written demand for monetary or injunctive relief commenced by the **insured's** receipt of such Notice, Order, or written demand; or
7. a written request to toll or waive a statute of limitations.

**Claim** does not include a labor or grievance proceeding which is subject to a collective bargaining agreement.

**Claim** also does not include a **workplace violence event** or **threat event**.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Employment practices wrongful act

means:

1. solely with respect to any past, present, or future **employee** or **independent contractor** of an **insured organization** or an employee of an **outside entity**:
  - a. breach of an implied contract;
  - b. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - c. employment-related misrepresentation(s);
  - d. harassment, sexual harassment, or hostile work environment;
  - e. **retaliation**;
  - f. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
  - g. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
  - h. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
  - i. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights, but only if alleged in conjunction with and based on the same allegations as a **claim** for parts a through h above; or
2. a **third party violation**.

**Employment practices wrongful act** does not include any **workplace violence event** or **threat event** carried out in whole or in part by an **insured**.

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Insured premises

means any real property owned or rented by an **insured organization** in the conduct of its operations.

### Loss

means the following amounts incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre-judgment and post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**;
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages (including the multiple or liquidated damages awards under the Age Discrimination in Employment Act and the Equal Pay Act) to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or
5. salary, wages, and bonus compensation, including back pay and front pay.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief, including any liability or costs incurred by any **insured** to modify any building or property in order to make such building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity, or other corporate program, policy, or seminar;
- e. employment-related benefits, perquisites, stock options, deferred compensation, or any other type of compensation other than salary, wages, or bonus compensation; or
- f. the charges or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above.

### Loss of life benefits

means \$100,000 per deceased **employee**, **executive**, or **independent contractor** which **we** will pay as a result of the death or clinical death of an **employee**, **executive**, or **independent contractor** as a direct result of a **threat event** or **workplace violence event**.

However, **we** will have no obligation to pay **loss of life benefits** for any **employee**, **executive**, or **independent contractor** who committed the **threat event** or **workplace violence event**.

### Outside entity

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Period of restoration

means the period of time beginning 24 hours after the **insured organization's** operations are actually suspended or an order by a civil or military authority prohibits access to the **insured premises**, and ending on the earliest of:

1. after due diligence, the date such operations are restored by the **insured organization** to the level that existed prior to the **workplace violence event**;
2. 90 days after the suspension of operations; or
3. 30 days after a civil or military authority denies access to the **insured premises**.

The termination or cancellation of this policy will not reduce the **period of restoration**.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistleblower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the EPL Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or **outside entity**, including but not limited to guests, patients, members, students, customers, vendors, and suppliers. **Third party violation** does not include any **threat event** or **workplace violence event** committed by an **insured**.

### Threat event

means any threat or conduct, other than a **workplace violence event**, which demonstrates intent to:

1. inflict bodily harm on any **workplace violence insured person**; or
2. damage, destroy, or contaminate the **named insured's** tangible property.

### Threat expenses

means reasonable fees, costs, and expenses incurred after **you** have reported a **threat event** and with **our** consent for:

1. independent threat management or security consultant services provided by a consultant **we** select to assess and provide advice concerning a **threat event**, incurred within 90 days of such **threat event**;
2. independent security guard services provided by a security firm **we** select, incurred within 90 days of a **threat event**; and
3. any other costs incurred by the **insured organization** with **our** prior written consent.

### Workplace violence event

means any act of actual or potential deadly force involving the use of a weapon which results in bodily injury or death to any **workplace violence insured person**. **Workplace violence event**

does not include any accidental act.

### Workplace violence event expenses

means reasonable fees, costs, and expenses incurred after **you** have reported a **workplace violence event** and with **our** consent for:

1. medical, mental health, dental, and cosmetic services, including the cost of plastic surgery, incurred by any **workplace violence insured person** within 36 months of a **workplace violence event**;
2. rest and rehabilitation, including meals and recreation, taken within 90 days of a **workplace violence event**, incurred by any **workplace violence insured person** who has suffered bodily injury, such person's spouse, domestic partner, and/or child(ren), and/or the spouse, domestic partner, and/or child(ren) of any deceased **workplace violence insured person**;
3. crisis mental health counseling services, incurred by the **insured organization** within 90 days of a **workplace violence event** for any **workplace violence insured person** who requests such services;
4. independent public relations consultants, crisis management consultants, and/or interpreters, incurred by the **insured organization** within 90 days of a **workplace violence event**;
5. personal financial loss incurred by a **workplace violence insured person** within 90 days of a **workplace violence event** due to their physical inability to attend to personal financial matters;
6. the gross salary, including bonuses and allowances, for a temporary replacement of any **workplace violence insured person** who has suffered bodily injury or death, incurred by the **insured organization** within 90 days of a **workplace violence event**, provided such amounts do not exceed such person's total compensation;
7. independent computer forensic analysts selected by the **named insured**, incurred by the **insured organization** within 90 days of a **workplace violence event**;
8. independent security guard and/or consultant services, incurred by the **insured organization** within 90 days of a **workplace violence event**; and
9. any other costs incurred by the **insured organization** with **our** prior written consent.

**Workplace violence expenses** do not include any **claim expenses** or other **loss** for any **claim** made against **you**.

### Workplace violence insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. a guest or customer of the **insured organization** while on the **insured premises**.

**Workplace violence insured person** does not include any person whose threat, conduct, or act directly resulted in a **threat event** or **workplace violence event**.

### You, your, or insured

means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined in Section III. Who is an insured.



### I. Insuring agreement

We will pay up to the **coverage part limit** for **loss** in excess of the **retention** resulting from covered **claims** against **you** for any actual or alleged **employment practices wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

#### Workplace violence limit

A. We will pay up to the limit stated in the Declarations, in the aggregate, for:

1. **threat expenses** incurred by an **insured organization** directly resulting from a **threat event** that takes place, in whole or in part, during the policy period stated in Item 2 of the Declarations, regardless of whether the **threat event** occurs on or off the **insured premises**;
2. **workplace violence expenses** and **business interruption expenses** incurred by an **insured organization** or **insured person** directly resulting from a **workplace violence event** that takes place on the **insured premises** during the policy period stated in Item 2 of the Declarations; and
3. **loss of life benefits** incurred by an **insured organization** directly resulting from a **workplace violence event** that takes place on the **insured premises** during the policy period stated in Item 2 of the Declarations.

No **retention** will apply to any payment we make under this subsection A, and any amounts we pay will be in addition to, and not a part of, the **coverage part limit**.

However, our obligation to make any payment under this subsection A is specifically excess of and will not contribute with any other valid and collectible insurance available to **you** for any loss which may be covered under both policies.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **wrongful acts**, **workplace violence events**, or **threat events** occurring during the course of such **management control** or sponsorship.

#### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

#### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), or member of the Board of Managers or advisory board (or equivalent position);

2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,  
but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own **employees**.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim**. Such request must be made in writing and within 90 days after the **claim** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the **retention** on **your** behalf prior to the final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;



2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after the conclusion of a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims

- A. **You** must give written notice to **us** of any **claim** as soon as possible once such **claim** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of threat events

- C. **You** must give notice to **our** designated representative of any **threat event** as soon as possible by calling the telephone number stated in Item 6 of the Declarations.

### Notifying us of workplace violence events

- D. **You** must give written notice to **us** of any **workplace violence event** within 30 days after such **workplace violence event** takes place, but in any event no later than 30 days after the end of the **policy period**.

All such notifications must be in writing, include the following information, and be submitted to

**us** via the designated email address or mailing address stated in Item 6 of the Declarations:

1. a description of the **workplace violence event**;
2. the name(s) of any individual(s) whose conduct or act(s) resulted in the **workplace violence event**;
3. the manner in which **you** first became aware of the **workplace violence event**;
4. the nature and extent of any actual or potential bodily injury to or death of any **insured person(s)**, including the name(s) of any injured and/or deceased **insured person(s)** and supporting medical invoices and documentation; and
5. the nature and extent of any lost **business income** incurred by the **insured organization**, including documentation supporting the calculation of such **business income**.

### Related events

- E. If **you** have given notice to **us** (or **our** designated representative) of a **threat event** or **workplace violence event**, any prior or subsequent **threat events** or **workplace violence events** arising out of the same or substantially similar facts or circumstances will be deemed to have been reported at the time **you** notified **us** of the first **threat event** or **workplace violence event**, and they will all be considered a single **threat event** or **workplace violence event**.

### Proof of loss for workplace violence coverage

- F. As a condition precedent to coverage for any **threat event** or **workplace violence event**, **you** must provide a signed and sworn proof of loss to **us** stating, at a minimum, a full description of the circumstances surrounding the loss, including the time, place, cause, and detailed calculation of any **business interruption expenses**, **threat expenses**, or **workplace violence expenses**, within 90 days after any such expenses are incurred.

### Retention

- G. **Our** obligation to pay **loss** under this Coverage Part is in excess of the **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to **threat events** or **workplace violence events** under Section II. Coverage enhancements, A. Workplace violence limit.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or, in the event of the **insured organization's** bankruptcy or **insolvency**, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to claims

**We** will have no obligation to pay any sums under this Coverage Part for any **claim**:

### Bodily injury/property damage

1. for any:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to a **claim** for emotional distress or mental anguish resulting from an **employment practices wrongful act**.

- |                          |  |
|--------------------------|--|
| Breach of contract       | <p>2. based upon or arising out of any actual or alleged breach of any express contract or agreement, or any liability of others <b>you</b> assume under any express contract or agreement, except that <b>we</b> will pay <b>claim expenses</b> for an otherwise covered <b>claim</b> against <b>you</b> alleging an <b>employment practices wrongful act</b>.</p> <p>This exclusion will not apply to liability <b>you</b> would have in the absence of the express contract or agreement.</p>   |
| Compensation violations  | <p>3. based upon or arising out of any actual or alleged obligation under any workers' compensation, unemployment compensation, employee benefits, fair labor standards, labor relations, wage and hour, <b>employee expense reimbursement</b>, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>  |
| Fraudulent/criminal acts | <p>4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the <b>claim</b> at issue.</p>   |
| Prior notice/knowledge   | <p>5. based upon or arising out of any actual or alleged <b>employment practices wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>employment practices wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>employment practices wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p> |
| Statutory violations     | <p>6. for any violation of the following laws:</p> <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act (except the Equal Pay Act);</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>  |
| Wage and payroll         | <p>7. based upon or arising out of any actual or alleged improper or inaccurate payroll deductions, failure to itemize, or inaccurate wage statements, unpaid wages or overtime pay (other than tort-based back pay or front pay damages for non-conversion related torts), or failure to provide or enforce legally required meal or rest breaks; however, this exclusion will not apply to an otherwise covered <b>claim</b> for <b>retaliation</b>.</p>   |
| Workplace violence       | <p>8. brought against any <b>insured</b> in connection with a <b>threat event</b> or <b>workplace violence event</b>.</p>  |

### Exclusions applicable to workplace violence

Exclusions 3 and 6 above, as well as the following exclusions, apply to Section II. Coverage enhancements, A. Workplace violence limit.

**We will have no obligation to pay any threat expenses, workplace violence expenses, business**

### interruption expenses, or loss of life benefits:

- |         |  |
|---------|--|
| Robbery | 9. based upon or arising out of any actual or alleged use or threat of force or violence occurring on the <b>insured premises</b> for the purpose of demanding money, securities, or property.   |
| War     | 10. based upon or arising out of any war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military, or usurped power, or confiscation, nationalization, requisition, destruction of, or damage to property by or under the order of any governmental, public, or local authority. |

For purposes of determining the applicability of exclusion 4, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. Exclusion 4 will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Business income

means:

1. the sum of:
  - a. net profit before taxes that would have been earned by **you** had no **workplace violence event** occurred;
  - b. the actual cost of continuing, on a curtailed basis, activities which are necessary for the **insured organization** to resume operations with substantially the same quality of service which existed immediately before the **workplace violence event**; and
  - c. reasonable expenses which would not have been incurred except for such **workplace violence event** and which were incurred by the **insured organization** for the sole purpose of reducing loss described in parts a and b above;
2. less the sum of:
  - a. all recoveries, insurance, suretyship, and other indemnity which would cover loss described in part 1 above in the absence of this coverage; and
  - b. the amount by which the **insured organization** fails to reduce loss described in part 1 above through any reasonable measures,

all as sustained or incurred during the **period of restoration**.

### Business interruption expenses

means the actual lost **business income** sustained by the **insured organization** due to:

1. the actual suspension of the **insured organization's** operations; or
  2. an order by a civil or military authority prohibiting access to the **insured premises**, in whole or in part,
- during the **period of restoration**.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;

4. a formal administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a formal investigative order (or similar document), including any investigation or proceeding brought by or on behalf of the Equal Employment Opportunity Commission or any state or local equivalent;
5. an arbitration proceeding pursuant to an employment contract or a policy or practice of an **insured organization**, commenced by the service on the **insured** of a demand for arbitration (or similar document);
6. following an audit conducted by the Office of Federal Contract Compliance Program, a Notice of Violation or Order to Show Cause, or a written demand for monetary or injunctive relief commenced by the **insured's** receipt of such Notice, Order, or written demand; or
7. a written request to toll or waive a statute of limitations.

**Claim** does not include a labor or grievance proceeding which is subject to a collective bargaining agreement.

**Claim** also does not include a **workplace violence event** or **threat event**.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Employment practices wrongful act

means:

1. solely with respect to any past, present, or future **employee** or **independent contractor** of an **insured organization** or an employee of an **outside entity**:
  - a. breach of an implied contract;
  - b. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - c. employment-related misrepresentation(s);
  - d. harassment, sexual harassment, or hostile work environment;
  - e. **retaliation**;
  - f. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
  - g. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
  - h. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
  - i. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights, but only if alleged in conjunction with and based on the same allegations as a **claim** for parts a through h above; or
2. a **third party violation**.

**Employment practices wrongful act** does not include any **workplace violence event** or **threat event** carried out in whole or in part by an **insured**.

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Insured premises

means any real property owned or rented by an **insured organization** in the conduct of its operations.

### Loss

means the following amounts incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre-judgment and post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**;
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages (including the multiple or liquidated damages awards under the Age Discrimination in Employment Act and the Equal Pay Act) to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or
5. salary, wages, and bonus compensation, including back pay and front pay.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief, including any liability or costs incurred by any **insured** to modify any building or property in order to make such building or property more accessible or accommodating to any disabled person, or any liability or costs incurred in connection with any educational, sensitivity, or other corporate program, policy, or seminar;
- e. employment-related benefits, perquisites, stock options, deferred compensation, or any other type of compensation other than salary, wages, or bonus compensation; or
- f. the charges or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above.

### Loss of life benefits

means \$100,000 per deceased **employee**, **executive**, or **independent contractor** which **we** will pay as a result of the death or clinical death of an **employee**, **executive**, or **independent contractor** as a direct result of a **threat event** or **workplace violence event**.

However, **we** will have no obligation to pay **loss of life benefits** for any **employee**, **executive**, or **independent contractor** who committed the **threat event** or **workplace violence event**.

### Outside entity

means any:



1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Period of restoration

means the period of time beginning 24 hours after the **insured organization's** operations are actually suspended or an order by a civil or military authority prohibits access to the **insured premises**, and ending on the earliest of:

1. after due diligence, the date such operations are restored by the **insured organization** to the level that existed prior to the **workplace violence event**;
2. 90 days after the suspension of operations; or
3. 30 days after a civil or military authority denies access to the **insured premises**.

The termination or cancellation of this policy will not reduce the **period of restoration**.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistleblower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the EPL Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or **outside entity**, including but not limited to guests, patients, members, students, customers, vendors, and suppliers. **Third party violation** does not include any **threat event** or **workplace violence event** committed by an **insured**.

### Threat event

means any threat or conduct, other than a **workplace violence event**, which demonstrates intent to:

1. inflict bodily harm on any **workplace violence insured person**; or
2. damage, destroy, or contaminate the **named insured's** tangible property.

### Threat expenses

means reasonable fees, costs, and expenses incurred after **you** have reported a **threat event** and with **our** consent for:

1. independent threat management or security consultant services provided by a consultant **we** select to assess and provide advice concerning a **threat event**, incurred within 90 days of such **threat event**;
2. independent security guard services provided by a security firm **we** select, incurred within 90 days of a **threat event**; and
3. any other costs incurred by the **insured organization** with **our** prior written consent.

### Workplace violence event

means any act of actual or potential deadly force involving the use of a weapon which results in bodily injury or death to any **workplace violence insured person**. **Workplace violence event**

does not include any accidental act.

### Workplace violence event expenses

means reasonable fees, costs, and expenses incurred after **you** have reported a **workplace violence event** and with **our** consent for:

1. medical, mental health, dental, and cosmetic services, including the cost of plastic surgery, incurred by any **workplace violence insured person** within 36 months of a **workplace violence event**;
2. rest and rehabilitation, including meals and recreation, taken within 90 days of a **workplace violence event**, incurred by any **workplace violence insured person** who has suffered bodily injury, such person's spouse, domestic partner, and/or child(ren), and/or the spouse, domestic partner, and/or child(ren) of any deceased **workplace violence insured person**;
3. crisis mental health counseling services, incurred by the **insured organization** within 90 days of a **workplace violence event** for any **workplace violence insured person** who requests such services;
4. independent public relations consultants, crisis management consultants, and/or interpreters, incurred by the **insured organization** within 90 days of a **workplace violence event**;
5. personal financial loss incurred by a **workplace violence insured person** within 90 days of a **workplace violence event** due to their physical inability to attend to personal financial matters;
6. the gross salary, including bonuses and allowances, for a temporary replacement of any **workplace violence insured person** who has suffered bodily injury or death, incurred by the **insured organization** within 90 days of a **workplace violence event**, provided such amounts do not exceed such person's total compensation;
7. independent computer forensic analysts selected by the **named insured**, incurred by the **insured organization** within 90 days of a **workplace violence event**;
8. independent security guard and/or consultant services, incurred by the **insured organization** within 90 days of a **workplace violence event**; and
9. any other costs incurred by the **insured organization** with **our** prior written consent.

**Workplace violence expenses** do not include any **claim expenses** or other **loss** for any **claim** made against **you**.

### Workplace violence insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. a guest or customer of the **insured organization** while on the **insured premises**.

**Workplace violence insured person** does not include any person whose threat, conduct, or act directly resulted in a **threat event** or **workplace violence event**.

### You, your, or insured

means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined in Section III. Who is an insured.



## Executive Risks Management Liability Application **C-Suite**

### NEW BUSINESS APPLICATION

**NOTICE:**

**YOUR POLICY CONTAINS CLAIMS-MADE LIABILITY COVERAGE. CLAIMS-MADE COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE DURING THE POLICY PERIOD OR DISCOVERY PERIOD, IF PURCHASED, AND REPORTED IN ACCORDANCE WITH THE TERMS OF THE POLICY.**

**THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES WILL BE REDUCED AND MAY BE EXHAUSTED BY CLAIMS EXPENSES. FURTHERMORE, CLAIMS EXPENSES WILL BE APPLIED AGAINST THE RETENTION.**

**READ THE POLICY AND THIS APPLICATION CAREFULLY AND CONSULT YOUR INSURANCE ADVISOR WITH ANY QUESTIONS.**

### General Information:

Name of Applicant:

Address of Applicant:

City:

State:

Zip Code:

Website Address:

Date of Formation:        /        /

**Please note: For purposes of this application, "you/your" includes the Applicant and any other persons or entities seeking coverage under this insurance on whose behalf the Applicant is authorized to submit the following information.**

1. Description of Operations and NAICS code (if known):

2. Do you:		
a. maintain any locations outside of the U.S?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If yes, please describe:

b. i. maintain any locations in; OR ii. have any employees working in any metropolitan area in the State of California?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes to either part of the above, please describe:

c. have publicly traded securities or debt? <span style="color: red;">(private entities only)</span>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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d. qualify for tax exempt status under the U.S. Internal Revenue Code or applicable state codes?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, is every such organization a 501 (c)(3)?

3. Have you engaged in any mergers or acquisitions in the last three years, or are there any plans for mergers or acquisitions in the next 12 months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please describe:

4. Have you experienced changes to your key executives or board of directors over the past 12 months?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please describe:

### Financial Information:

1. Please provide the following information for the Applicant and all of its subsidiaries combined:

Date of financial statement:

Total assets:	\$
Total liabilities:	\$
Current assets:	\$
Current liabilities:	\$
Fund balance <span style="color: red;">(nonprofit entities only)</span> :	\$
Total revenues:	\$
Net income or net loss:	\$

Cash flow from operations:	\$
2. Are you currently in breach of any debt covenants or are you expected to be in breach of any debt covenants in the next 12 months? If Yes, please attach details.	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

## Insurance History and Requested Coverage:

1. Please provide the following information for the Applicant (please attach information for each subsidiary separately):

	Coverage(s) currently in place	Requested coverage part(s)	Requested limit	Requested retention
Directors and Officers Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Employment Practices Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Fiduciary Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Employed Lawyers Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$

2. If you have any of the above coverages currently in place, please provide current policy details or attach a copy of the Declarations page(s):

3. Has any insurer declined, cancelled, or nonrenewed any insurance policy similar to the requested coverage for any person or organization to be insured? <b>Missouri applicants need not reply</b>	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
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## Claims Details:

1. Has any claim of the type that could be covered by the requested coverage ever been made against you?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
2. Are you aware of any act, error, omission, or other matter which may lead to a claim against you or other loss of the type that could be covered by the requested coverage?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
3. Have you ever been subject to an inquiry, investigation, or action by any regulatory body or administrative agency?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
4. Have you ever been subject to a criminal action?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
5. Have you ever been involved in any antitrust, copyright, or patent litigation?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

If yes to any of the above, please attach or provide additional details:

### Additional information requested:

- Loss runs for the last three years (if you currently carry coverage).
- If you have any pending or prior litigation, please provide details, including demand amounts, name of the plaintiff(s), amount of any settlements or judgments, and steps you have taken to mitigate similar issues in the future.

## Directors & Officers Liability Information:

(questions 1, 2, and 3 apply to private entities only; question 6 applies to nonprofit entities only)

1. Provide shareholder information as indicated below:

Director or Officer (D&O) shareholders:	Voting shares owned:
	%
	%
	%
	%
Other shareholders (non-D&O) owning 5% or more voting shares:	Voting shares owned:
	%
	%
	%

If more space is needed, please provide on separate attachment.

2. Are any of your shareholders private equity or venture capital firms?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
3. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential private placement or public offering of securities?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

If yes, please explain:

4. Please indicate whether formal written policies addressing the following areas have been implemented by your Board of Directors:			
Written policy:	Implemented?		If yes, are they reviewed and/or updated periodically?
Audit	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Compliance	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Conflicts of Interest	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Compensation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide additional details here if necessary:				
5. Have you changed your outside auditor in the last 24 months or are you contemplating a change in the next 12 months? If yes, please attach additional details.			Yes <input type="checkbox"/>	No <input type="checkbox"/>
6. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential non-taxable bond issuances?			Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please explain:				

Additional information requested:

1. Your latest audited financial statements.

Employment Practices Liability Information:

1. Provide employee totals as follows:

How many Full-time employees?:	How many Part-time* employees?:	TOTAL number of employees: (add Full-time and Part-time)

\* Part-time employees includes any leased, temporary, volunteer and seasonal employees (including any interns)

Top five states with largest number of employees	# of employees (Full-time or Part-time) in each of these states:

2. Number of involuntary terminations:	Current calendar year:	One calendar year prior:	Two calendar years prior:

3. Do you anticipate any reduction in force in the next 12 months? If yes, please attach additional details, including any legal counsel review, severance packages, and outplacement services provided.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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4. Do you have the following:		
Human resources department?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Written procedures addressing compliance with the Americans with Disabilities Act (ADA)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Employee handbook?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Requirement for acknowledgement/receipt of handbook by employee?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Do you have written policies in place regarding:	Discipline?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Termination?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Sexual Harassment?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Retaliation?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Discrimination?	Yes <input type="checkbox"/> No <input type="checkbox"/>
For those marked yes, are all employees provided training on all of these policies?		Yes <input type="checkbox"/> No <input type="checkbox"/>
If no, please explain:		

5. Do you require employment applications to be completed for all prospective employees?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Fiduciary Liability Information:

1. Provide the following with respect to the five largest employee retirement plans you offer:

Plan name:	Plan type:	Total plan assets:	Delinquent contributions in the past 12 months?	
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>

2. How often are the following reviewed?

Plan Investment Performance:	Monthly <input type="checkbox"/>	Quarterly <input type="checkbox"/>	Yearly <input type="checkbox"/>	Not reviewed <input type="checkbox"/>
Plan Investment Options:	Monthly <input type="checkbox"/>	Quarterly <input type="checkbox"/>	Yearly <input type="checkbox"/>	Not reviewed <input type="checkbox"/>
3. Has there been any reduction in benefits or has any plan been sold, transferred, terminated or frozen over the past three years, or are there plans to do so in the future?				Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please describe:				
4. Are any plans not in compliance with any provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") (or any other applicable similar law)?				Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please describe:				

**Additional information requested:**

1. If you offer an ESOP, please attach latest valuation.
2. If you offer defined benefit plans or cash balance plans, please attach latest audited plan financial statements.

**Employed Lawyers Liability Information:**

1. How many lawyers do you employ in their capacity as such?:		
2. What is the average experience (in years) of your employed lawyers?:		
3. Do any employed lawyers:		
Provide <i>pro bono</i> services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform moonlighting services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Issue legal opinions to outside parties?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform legal services related to mergers, acquisitions, or consolidations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Appear in court on your behalf or on behalf of any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform any securities-related legal services for you or any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide legal services related to criminal, matrimonial, or intellectual property matters, or estate/financial planning services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Serve on the Board of Directors of the Applicant or any of its subsidiaries?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes to any of the above, please attach additional details.		

**Remainder of page intentionally left blank**

## **APPLICATION DISCLOSURES:**

If there is any material change in the answers to the questions in this Application before the proposed policy inception date, you must notify us in writing. In such case, we have the right to cancel, withdraw, or modify any outstanding quote for insurance coverage or any policy that may have been issued.

Your submission of this Application does not obligate us to issue, or require you to purchase, a policy. You authorize us to make any inquiry in connection with this Application.

All written statements and materials provided to us in conjunction with this Application are incorporated into this Application and made a part of it.

The undersigned, as your authorized representative or agent, declares to the best of their knowledge and belief and after reasonable inquiry, that the statements made in this Application are true, accurate, and complete. The undersigned agrees that we will rely on this Application in issuing any insurance policy providing the requested coverage, and that this Application will form the basis of any such insurance policy.

**Please read the following statement carefully and sign where indicated in the Applicant Information section below:**

The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that the limit of liability contained in this policy shall be reduced, and may be completely exhausted, by the costs of legal defense and, in such event, the insurer shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the limit of liability of this policy. The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that legal defense costs that are incurred shall be applied against the retention amount.

**NOTICE TO APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO ARKANSAS, NEW MEXICO AND WEST VIRGINIA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT, OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO COLORADO APPLICANTS:** IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AUTHORITIES.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:** WARNING: IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT.

**NOTICE TO FLORIDA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

**NOTICE TO KANSAS APPLICANTS:** ANY PERSON WHO COMMITS A FRAUDULENT INSURANCE ACT IS GUILTY OF A CRIME AND MAY BE SUBJECT TO RESTITUTION, FINES AND CONFINEMENT IN PRISON. A FRAUDULENT INSURANCE ACT MEANS AN ACT COMMITTED BY ANY PERSON WHO, KNOWINGLY AND WITH INTENT TO DEFRAUD, PRESENTS, CAUSES TO BE PRESENTED OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, PURPORTED INSURER OR INSURANCE AGENT OR BROKER, ANY WRITTEN, ELECTRONIC, ELECTRONIC IMPULSE, FACSIMILE, MAGNETIC, ORAL, OR TELEPHONIC COMMUNICATION OR STATEMENT AS PART OF, OR IN SUPPORT OF, AN APPLICATION FOR INSURANCE, OR THE RATING OF AN INSURANCE POLICY, OR A CLAIM FOR PAYMENT OR OTHER BENEFIT UNDER AN INSURANCE POLICY, WHICH SUCH PERSON KNOWS TO CONTAIN MATERIALLY FALSE INFORMATION CONCERNING ANY MATERIAL FACT THERETO; OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO.

**NOTICE TO KENTUCKY APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME.

**NOTICE TO LOUISIANA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO MAINE APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING

INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**NOTICE TO MARYLAND APPLICANTS:** ANY PERSON WHO KNOWINGLY OR WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY OR WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO NEW JERSEY APPLICANTS:** ANY PERSON WHO INCLUDES ANY FALSE OR MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO OHIO APPLICANTS:** ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**NOTICE TO OKLAHOMA APPLICANTS: WARNING:** ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY (365:15-1-10, 36 §3613.1).

**NOTICE TO OREGON APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS MATERIALLY FALSE INFORMATION IN AN APPLICATION FOR INSURANCE MAY BE GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO PENNSYLVANIA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.

**NOTICE TO VERMONT APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR, CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, MAY BE GUILTY OF A CRIMINAL OFFENSE AND SUBJECT TO CIVIL PENALTIES UNDER STATE LAW.

**NOTICE TO NEW YORK APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

**Applicant Information:**

Applicant Name:

By (Authorized Signature):

Name/Title:

Date:

**Producer Information:**

Producer Name:

\* Producer Signature:

Date:

Address of Producer:

Street:		
City:	State:	Zip:
E-Mail Address:		

\*\* Producer License Number:

\* required only in the following State(s): Iowa

\*\* required only in the following State(s): Florida

## Executive Risks Management Liability Application **C-Suite**

### NEW BUSINESS APPLICATION

**NOTICE:**

**YOUR POLICY CONTAINS CLAIMS-MADE LIABILITY COVERAGE. CLAIMS-MADE COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE DURING THE POLICY PERIOD OR DISCOVERY PERIOD, IF PURCHASED, AND REPORTED IN ACCORDANCE WITH THE TERMS OF THE POLICY.**

**THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES WILL BE REDUCED AND MAY BE EXHAUSTED BY CLAIMS EXPENSES. FURTHERMORE, CLAIMS EXPENSES WILL BE APPLIED AGAINST THE RETENTION.**

**READ THE POLICY AND THIS APPLICATION CAREFULLY AND CONSULT YOUR INSURANCE ADVISOR WITH ANY QUESTIONS.**

### General Information:

Name of Applicant:

Address of Applicant:

City:

State:

Zip Code:

Website Address:

Date of Formation:        /        /

**Please note: For purposes of this application, “you/your” includes the Applicant and any other persons or entities seeking coverage under this insurance on whose behalf the Applicant is authorized to submit the following information.**

1. Description of Operations and NAICS code (if known):

2. Do you:

a. maintain any ~~offices~~ locations outside of the U.S?

Yes ☐

No ☐

If yes, please describe:

b. i. maintain any locations in: OR  
ii. have any employees working in  
any metropolitan area in the State of California?
Yes ☐
No ☐
If yes to either part of the above, please describe:
cb. have publicly traded securities or debt? (private entities only)

Yes ☐

No ☐
dc. qualify for tax exempt status under the U.S. Internal Revenue Code or applicable state codes?

Yes ☐

No ☐

If yes, is every such organization a 501 (c)(3)?

Yes ☐

No ☐

3. Have you engaged in any mergers or acquisitions in the last three years, or are there any plans for mergers or acquisitions in the next 12 months?

Yes ☐

No ☐

If yes, please describe:

4. Have you experienced changes to your key executives or board of directors over the past 12 months?

Yes ☐

No ☐

If yes, please describe:

### Financial Information:

1. Please provide the following information for the Applicant and all of its subsidiaries combined:

Date of financial statement:

Total assets:

\$

Total liabilities:

\$

Current assets:

\$

Current liabilities:

\$

Fund balance (nonprofit entities only):

\$

Total revenues:

\$

Net income or net loss:

\$



Cash flow from operations:	\$
2. Are you currently in breach of any debt covenants or are you expected to be in breach of any debt covenants in the next 12 months? If Yes, please attach details.	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

## Insurance History and Requested Coverage:

1. Please provide the following information for the Applicant (please attach information for each subsidiary separately):

	Coverage(s) currently in place	Requested coverage part(s)	Requested limit	Requested retention
Directors and Officers Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Employment Practices Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Fiduciary Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Employed Lawyers Liability	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$

2. If you have any of the above coverages currently in place, please provide current policy details or attach a copy of the Declarations page(s):

3. Has any insurer declined, cancelled, or nonrenewed any insurance policy similar to the requested coverage for any person or organization to be insured? <b>Missouri applicants need not reply</b>	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
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## Claims Details:

1. Has any claim of the type that could be covered by the requested coverage ever been made against you?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
2. Are you aware of any act, error, omission, or other matter which may lead to a claim against you or other loss of the type that could be covered by the requested coverage?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
3. Have you ever been subject to an inquiry, investigation, or action by any regulatory body or administrative agency?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
4. Have you ever been subject to a criminal action?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
5. Have you ever been involved in any antitrust, copyright, or patent litigation?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

If yes to any of the above, please attach or provide additional details:

### Additional information requested:

- Loss runs for the last three years (if you currently carry coverage).
- If you have any pending or prior litigation, please provide details, including demand amounts, name of the plaintiff(s), amount of any settlements or judgments, and steps you have taken to mitigate similar issues in the future.

## Directors & Officers Liability Information:

(questions 1, 2, and 3 apply to private entities only; question 6 applies to nonprofit entities only)

1. Provide shareholder information as indicated below:

Director or Officer (D&O) shareholders:	Voting shares owned:
	%
	%
	%
	%
Other shareholders (non-D&O) owning 5% or more voting shares:	Voting shares owned:
	%
	%
	%

If more space is needed, please provide on separate attachment.

2. Are any of your shareholders private equity or venture capital firms?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>
3. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential private placement or public offering of securities?	<div>Yes <input type="checkbox"/></div> <div>No <input type="checkbox"/></div>

If yes, please explain:

4. Please indicate whether formal written policies addressing the following areas have been implemented by your Board of Directors:			
Written policy:	Implemented?		If yes, are they reviewed and/or updated periodically?
Audit	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Compliance	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Conflicts of Interest	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Compensation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide additional details here if necessary:				
5. Have you changed your outside auditor in the last 24 months or are you contemplating a change in the next 12 months? If yes, please attach additional details.			Yes <input type="checkbox"/>	No <input type="checkbox"/>
6. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential non-taxable bond issuances?			Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please explain:				

Additional information requested:

1. Your latest audited financial statements.

Employment Practices Liability Information:

1. Provide employee totals as follows:

How many Full-time employees?:	How many Part-time* employees?:	TOTAL number of employees: (add Full-time and Part-time)

\* Part-time employees includes any leased, temporary, volunteer and seasonal employees (including any interns)

Top five states with largest number of employees	# of employees (Full-time or Part-time) in each of these states:

2. Number of involuntary terminations:	Current calendar year:	One calendar year prior:	Two calendar years prior:

3. Do you anticipate any reduction in force in the next 12 months? If yes, please attach additional details, including any legal counsel review, severance packages, and outplacement services provided.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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4. Do you have the following:		
Human resources department?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Written procedures addressing compliance with the Americans with Disabilities Act (ADA)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Employee handbook?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Requirement for acknowledgement/receipt of handbook by employee?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Do you have written policies in place regarding:	Discipline?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Termination?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Sexual Harassment?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Retaliation?	Yes <input type="checkbox"/> No <input type="checkbox"/>
	Discrimination?	Yes <input type="checkbox"/> No <input type="checkbox"/>
For those marked yes, are all employees provided training on all of these policies?		Yes <input type="checkbox"/> No <input type="checkbox"/>
If no, please explain:		
5. Do you require employment applications to be completed for all prospective employees?		Yes <input type="checkbox"/> No <input type="checkbox"/>

Fiduciary Liability Information:

1. Provide the following with respect to the five largest employee retirement plans you offer:

Plan name:	Plan type:	Total plan assets:	Delinquent contributions in the past 12 months?	
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>

2. How often are the following reviewed?

Plan Investment Performance:	Monthly <input type="checkbox"/>	Quarterly <input type="checkbox"/>	Yearly <input type="checkbox"/>	Not reviewed <input type="checkbox"/>
Plan Investment Options:	Monthly <input type="checkbox"/>	Quarterly <input type="checkbox"/>	Yearly <input type="checkbox"/>	Not reviewed <input type="checkbox"/>
3. Has there been any reduction in benefits or has any plan been sold, transferred, terminated or frozen over the past three years, or are there plans to do so in the future?				Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please describe:				
4. Are any plans not in compliance with any provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") (or any other applicable similar law)?				Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please describe:				

**Additional information requested:**

1. If you offer an ESOP, please attach latest valuation.
2. If you offer defined benefit plans or cash balance plans, please attach latest audited plan financial statements.

**Employed Lawyers Liability Information:**

1. How many lawyers do you employ in their capacity as such?:		
2. What is the average experience (in years) of your employed lawyers?:		
3. Do any employed lawyers:		
Provide <i>pro bono</i> services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform moonlighting services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Issue legal opinions to outside parties?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform legal services related to mergers, acquisitions, or consolidations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Appear in court on your behalf or on behalf of any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform any securities-related legal services for you or any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide legal services related to criminal, matrimonial, or intellectual property matters, or estate/financial planning services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Serve on the Board of Directors of the Applicant or any of its subsidiaries?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes to any of the above, please attach additional details.		

**Remainder of page intentionally left blank**

## APPLICATION DISCLOSURES:

If there is any material change in the answers to the questions in this Application before the proposed policy inception date, you must notify us in writing. In such case, we have the right to cancel, withdraw, or modify any outstanding quote for insurance coverage or any policy that may have been issued.

Your submission of this Application does not obligate us to issue, or require you to purchase, a policy. You authorize us to make any inquiry in connection with this Application.

All written statements and materials provided to us in conjunction with this Application are incorporated into this Application and made a part of it.

The undersigned, as your authorized representative or agent, declares to the best of their knowledge and belief and after reasonable inquiry, that the statements made in this Application are true, accurate, and complete. The undersigned agrees that we will rely on this Application in issuing any insurance policy providing the requested coverage, and that this Application will form the basis of any such insurance policy.

**Please read the following statement carefully and sign where indicated in the Applicant Information section below:**

The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that the limit of liability contained in this policy shall be reduced, and may be completely exhausted, by the costs of legal defense and, in such event, the insurer shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the limit of liability of this policy. The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that legal defense costs that are incurred shall be applied against the retention amount.

**NOTICE TO APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO ARKANSAS, NEW MEXICO AND WEST VIRGINIA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT, OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO COLORADO APPLICANTS:** IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AUTHORITIES.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:** WARNING: IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT.

**NOTICE TO FLORIDA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

**NOTICE TO KANSAS APPLICANTS:** ANY PERSON WHO COMMITS A FRAUDULENT INSURANCE ACT IS GUILTY OF A CRIME AND MAY BE SUBJECT TO RESTITUTION, FINES AND CONFINEMENT IN PRISON. A FRAUDULENT INSURANCE ACT MEANS AN ACT COMMITTED BY ANY PERSON WHO, KNOWINGLY AND WITH INTENT TO DEFRAUD, PRESENTS, CAUSES TO BE PRESENTED OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, PURPORTED INSURER OR INSURANCE AGENT OR BROKER, ANY WRITTEN, ELECTRONIC, ELECTRONIC IMPULSE, FACSIMILE, MAGNETIC, ORAL, OR TELEPHONIC COMMUNICATION OR STATEMENT AS PART OF, OR IN SUPPORT OF, AN APPLICATION FOR INSURANCE, OR THE RATING OF AN INSURANCE POLICY, OR A CLAIM FOR PAYMENT OR OTHER BENEFIT UNDER AN INSURANCE POLICY, WHICH SUCH PERSON KNOWS TO CONTAIN MATERIALLY FALSE INFORMATION CONCERNING ANY MATERIAL FACT THERETO; OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO.

**NOTICE TO KENTUCKY APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME.

**NOTICE TO LOUISIANA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR

INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO MAINE APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**NOTICE TO MARYLAND APPLICANTS:** ANY PERSON WHO KNOWINGLY OR WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY OR WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO NEW JERSEY APPLICANTS:** ANY PERSON WHO INCLUDES ANY FALSE OR MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO OHIO APPLICANTS:** ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**NOTICE TO OKLAHOMA APPLICANTS: WARNING:** ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY (365:15-1-10, 36 §3613.1).

**NOTICE TO OREGON APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS MATERIALLY FALSE INFORMATION IN AN APPLICATION FOR INSURANCE MAY BE GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO PENNSYLVANIA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.

**NOTICE TO VERMONT APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR, CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, MAY BE GUILTY OF A CRIMINAL OFFENSE AND SUBJECT TO CIVIL PENALTIES UNDER STATE LAW.

**NOTICE TO NEW YORK APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

**Applicant Information:**

Applicant Name:

By (Authorized Signature):

Name/Title:

Date:

**Producer Information:**

Producer Name:

\* Producer Signature:

Date:

Address of Producer:

Street:		
City:	State:	Zip:

E-Mail Address:

\*\* Producer License Number:

\* required only in the following State(s): Iowa  
\*\* required only in the following State(s): Florida

## Executive Risks Management Liability Application C-Suite

### RENEWAL APPLICATION

**NOTICE:**  
YOUR POLICY CONTAINS CLAIMS-MADE LIABILITY COVERAGE. CLAIMS-MADE COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE DURING THE POLICY PERIOD OR DISCOVERY PERIOD, IF PURCHASED, AND REPORTED IN ACCORDANCE WITH THE TERMS OF THE POLICY.

THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES WILL BE REDUCED AND MAY BE EXHAUSTED BY CLAIMS EXPENSES. FURTHERMORE, CLAIMS EXPENSES WILL BE APPLIED AGAINST THE RETENTION.

READ THE POLICY AND THIS APPLICATION CAREFULLY AND CONSULT YOUR INSURANCE ADVISOR WITH ANY QUESTIONS.

#### General Information:

Name of Applicant:

Address of Applicant:

City:

State:

Zip Code:

**Please note: For purposes of this application, "you/your" includes the Applicant and any other persons or entities seeking coverage under this insurance on whose behalf the Applicant is authorized to submit the following information.**

1. Description of current Operations and NAICS code (if known). Include full details of any changes in Operations during the past 12 months (if any):

2. Do you:

a. maintain any locations outside of the U.S?

Yes ☐

No ☐

If yes, please describe:

b. i. maintain any locations in; OR  
ii. have any employees working in  
any metropolitan area in the State of California?

Yes ☐

No ☐

If yes to either part of the above, please describe:

c. have publicly traded securities or debt? (private entities only)

Yes ☐

No ☐

d. qualify for tax exempt status under the U.S. Internal Revenue Code or applicable state codes?

Yes ☐

No ☐

If yes, is every such organization a 501 (c)(3)?

Yes ☐

No ☐

3. Have you engaged in any mergers or acquisitions in the last three years, or are there any plans for mergers or acquisitions in the next 12 months?

Yes ☐

No ☐

If yes, please describe:

4. Have you experienced changes to your key executives or board of directors over the past 12 months?

Yes ☐

No ☐

If yes, please describe:

#### Financial Information:

1. Please provide the following information for the Applicant and all of its subsidiaries combined:

Date of financial statement:

Total assets:	\$
Total liabilities:	\$
Current assets:	\$
Current liabilities:	\$
Fund balance (nonprofit entities only):	\$
Total revenues:	\$
Net income or net loss:	\$
Cash flow from operations:	\$

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2. Are you currently in breach of any debt covenants or are you expected to be in breach of any debt covenants in the next 12 months? If Yes, please attach details.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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**Directors & Officers Liability Information:**  
(questions 1 and 2 apply to private entities only; question 4 applies to nonprofit entities only)

1. Have there been any changes to ownership in the past 12 months?:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please describe:		
2. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential private placement or public offering of securities?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please explain:		
3. Have you changed your outside auditor in the last 24 months or are you contemplating a change in the next 12 months? If yes, please attach additional details.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential non-taxable bond issuances?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please explain:		

**Additional information requested:**

1. Your latest audited financial statements.

**Employment Practices Liability Information:**

1. Provide employee totals as follows:

How many Full-time employees?:	How many Part-time* employees?:	TOTAL number of employees: (add Full-time and Part-time)

\* Part-time employees includes any leased, temporary, volunteer and seasonal employees (including any interns)

Top five states with largest number of employees	# of employees (Full-time or Part-time) in each of these states:

2. Number of involuntary terminations:	Current calendar year:	One calendar year prior:	Two calendar years prior:	
3. Do you anticipate any reduction in force in the next 12 months? If yes, please attach additional details, including any legal counsel review, severance packages, and outplacement services provided.			Yes <input type="checkbox"/>	No <input type="checkbox"/>
4. Have there been any changes to your HR or workforce management policies and procedures over the past year (or any contemplated changes)?			Yes <input type="checkbox"/>	No <input type="checkbox"/>

**Fiduciary Liability Information:**

1. Provide the following with respect to the five largest employee retirement plans you offer:

Plan name:	Plan type:	Total plan assets:	Delinquent contributions in the past 12 months?	
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>

2. Has there been any reduction in benefits or has any plan been sold, transferred, terminated or frozen over the past three years, or are there plans to do so in the future?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please describe:		
3. Are any plans not in compliance with any provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") (or any other applicable similar law)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please describe:		

**Additional information requested:**



- 1. If you offer an ESOP, please attach latest valuation.
- 2. If you offer defined benefit plans or cash balance plans, please attach latest audited plan financial statements.

Employed Lawyers Liability Information:

1. How many lawyers do you employ in their capacity as such?:

2. What is the average experience (in years) of your employed lawyers?:

3. Do any employed lawyers:

Provide <i>pro bono</i> services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform moonlighting services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Issue legal opinions to outside parties?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform legal services related to mergers, acquisitions, or consolidations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Appear in court on your behalf or on behalf of any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform any securities-related legal services for you or any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide legal services related to criminal, matrimonial, or intellectual property matters, or estate/financial planning services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Serve on the Board of Directors of the Applicant or any of its subsidiaries?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If yes to any of the above, please attach additional details.

RENEWAL DISCLOSURE:

Solely with respect to any new coverage and/or additional limits that may be issued for the proposed renewal, after inquiry, you agree that no person or entity seeking coverage under this insurance has (1) had any claims that would fall within the scope of the proposed new coverage and/or additional limits; or (2) knowledge of any actual or alleged act, error, or omission which might reasonably be likely to lead to a claim under the proposed new coverage and/or additional limits.

If you do not agree with the above, please explain in a separate attachment.

Without prejudice to any of our other rights and remedies, you understand and agree that any claim arising from any such knowledge or information is excluded from the proposed new coverage and/or additional limits, if issued by us.

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#### **APPLICATION DISCLOSURES:**

If there is any material change in the answers to the questions in this Application before the proposed policy inception date, you must notify us in writing. In such case, we have the right to cancel, withdraw, or modify any outstanding quote for insurance coverage or any policy that may have been issued.

Your submission of this Application does not obligate us to issue, or require you to purchase, a policy. You authorize us to make any inquiry in connection with this Application.

All written statements and materials provided to us in conjunction with this Application are incorporated into this Application and made a part of it.

The undersigned, as your authorized representative or agent, declares to the best of their knowledge and belief and after reasonable inquiry, that the statements made in this Application are true, accurate, and complete. The undersigned agrees that we will rely on this Application in issuing any insurance policy providing the requested coverage, and that this Application will form the basis of any such insurance policy.

**Please read the following statement carefully and sign where indicated in the Applicant Information section below:**

The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that the limit of liability contained in this policy shall be reduced, and may be completely exhausted, by the costs of legal defense and, in such event, the insurer shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the limit of liability of this policy. The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that legal defense costs that are incurred shall be applied against the retention amount.

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INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**NOTICE TO MARYLAND APPLICANTS:** ANY PERSON WHO KNOWINGLY OR WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY OR WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

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**NOTICE TO OHIO APPLICANTS:** ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**NOTICE TO OKLAHOMA APPLICANTS: WARNING:** ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY (365:15-1-10, 36 §3613.1).

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**NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.

**NOTICE TO VERMONT APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR, CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, MAY BE GUILTY OF A CRIMINAL OFFENSE AND SUBJECT TO CIVIL PENALTIES UNDER STATE LAW.

**NOTICE TO NEW YORK APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

Applicant Information:

Applicant Name:

By (Authorized Signature):

Name/Title:

Date:

Producer Information:

Producer Name:

\* Producer Signature:

Date:

Address of Producer:

Street:

City:

State:

Zip:

E-Mail Address:

\*\* Producer License Number:

\* required only in the following State(s): Iowa  
\*\* required only in the following State(s): Florida

## Executive Risks Management Liability Application **C-Suite**

### RENEWAL APPLICATION

**NOTICE:**

**YOUR POLICY CONTAINS CLAIMS-MADE LIABILITY COVERAGE. CLAIMS-MADE COVERAGE APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE DURING THE POLICY PERIOD OR DISCOVERY PERIOD, IF PURCHASED, AND REPORTED IN ACCORDANCE WITH THE TERMS OF THE POLICY.**

**THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES WILL BE REDUCED AND MAY BE EXHAUSTED BY CLAIMS EXPENSES. FURTHERMORE, CLAIMS EXPENSES WILL BE APPLIED AGAINST THE RETENTION.**

**READ THE POLICY AND THIS APPLICATION CAREFULLY AND CONSULT YOUR INSURANCE ADVISOR WITH ANY QUESTIONS.**

### General Information:

Name of Applicant:

Address of Applicant:

City:

State:

Zip Code:

**Please note: For purposes of this application, "you/your" includes the Applicant and any other persons or entities seeking coverage under this insurance on whose behalf the Applicant is authorized to submit the following information.**

<p>1. <del>Have there been any changes in your Operations in the past 12 months?</del> <span style="color: red;">Description of current Operations and NAICS code (if known). Include full details of any changes in Operations during the past 12 months (if any):</span> _____</p> <p style="color: blue;">If yes, please describe: _____</p>	<del>Yes</del> <input type="checkbox"/>	<del>No</del> <input type="checkbox"/>
<p>2. Do you:</p>		
<p>a. maintain any <del>offices</del> <span style="color: red;">locations</span> outside of the U.S?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p>If yes, please describe:</p>		
<p><span style="color: red;">b. i. maintain any locations in: OR</span>  <span style="color: red;">ii. have any employees working in</span>  <span style="color: red;">any metropolitan area in the State of California?</span></p>	<span style="color: red;">Yes</span> <input type="checkbox"/>	<span style="color: red;">No</span> <input type="checkbox"/>
<p><span style="color: red;">If yes to either part of the above, please describe:</span> _____</p>		
<p><span style="color: red;">cb.</span> have publicly traded securities or debt? <span style="color: red;">(private entities only)</span></p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p><span style="color: red;">de.</span> qualify for tax exempt status under the U.S. Internal Revenue Code or applicable state codes?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p>If yes, is every such organization a 501 (c)(3)?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p>3. Have you engaged in any mergers or acquisitions in the last three years, or are there any plans for mergers or acquisitions in the next 12 months?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p>If yes, please describe:</p>		
<p>4. Have you experienced changes to your key executives or board of directors over the past 12 months?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
<p>If yes, please describe:</p>		

### Financial Information:

1. Please provide the following information for the Applicant and all of its subsidiaries combined:

Date of financial statement:

Total assets:	\$
Total liabilities:	\$
Current assets:	\$
Current liabilities:	\$
Fund balance <span style="color: red;">(nonprofit entities only)</span> :	\$
Total revenues:	\$

Net income or net loss:	\$
Cash flow from operations:	\$
2. Are you currently in breach of any debt covenants or are you expected to be in breach of any debt covenants in the next 12 months? If Yes, please attach details.	Yes <input type="checkbox"/> No <input type="checkbox"/>

### Directors & Officers Liability Information:

(questions 1 and 2 apply to private entities only; question 4 applies to nonprofit entities only)

1. Have there been any changes to ownership in the past 12 months?: If yes, please describe:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential private placement or public offering of securities? If yes, please explain:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3. Have you changed your outside auditor in the last 24 months or are you contemplating a change in the next 12 months? If yes, please attach additional details.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4. Are you currently engaging in, or in the past three years have you engaged in, discussions with any other party concerning any actual or potential non-taxable bond issuances? If yes, please explain:	Yes <input type="checkbox"/>	No <input type="checkbox"/>

### Additional information requested:

1. Your latest audited financial statements.

### Employment Practices Liability Information:

1. Provide employee totals as follows:

How many Full-time employees?:	How many Part-time* employees?:	TOTAL number of employees: (add Full-time and Part-time)

\* Part-time employees includes any leased, temporary, volunteer and seasonal employees (including any interns)

Top five states with largest number of employees	# of employees (Full-time or Part-time) in each of these states:

2. Number of involuntary terminations:	Current calendar year:	One calendar year prior:	Two calendar years prior:
3. Do you anticipate any reduction in force in the next 12 months? If yes, please attach additional details, including any legal counsel review, severance packages, and outplacement services provided.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
4. Have there been any changes to your HR or workforce management policies and procedures over the past year (or any contemplated changes)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

### Fiduciary Liability Information:

1. Provide the following with respect to the five largest employee retirement plans you offer:

Plan name:	Plan type:	Total plan assets:	Delinquent contributions in the past 12 months?	
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Defined Contribution <input type="checkbox"/> Defined Benefit <input type="checkbox"/> Cash Balance <input type="checkbox"/> Welfare <input type="checkbox"/> ESOP <input type="checkbox"/> Other <input type="checkbox"/>	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2. Has there been any reduction in benefits or has any plan been sold, transferred, terminated or frozen over the past three years, or are there plans to do so in the future?			Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please describe:				

3. Are any plans not in compliance with any provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") (or any other applicable similar law)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If yes, please describe:

**Additional information requested:**

1. If you offer an ESOP, please attach latest valuation.
2. If you offer defined benefit plans or cash balance plans, please attach latest audited plan financial statements.

**Employed Lawyers Liability Information:**

1. How many lawyers do you employ in their capacity as such?:

2. What is the average experience (in years) of your employed lawyers?:

3. Do any employed lawyers:

Provide <i>pro bono</i> services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform moonlighting services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Issue legal opinions to outside parties?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform legal services related to mergers, acquisitions, or consolidations?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Appear in court on your behalf or on behalf of any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Perform any securities-related legal services for you or any other party?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Provide legal services related to criminal, matrimonial, or intellectual property matters, or estate/financial planning services?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Serve on the Board of Directors of the Applicant or any of its subsidiaries?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If yes to any of the above, please attach additional details.

**RENEWAL DISCLOSURE:**

Solely with respect to any new coverage and/or additional limits that may be issued for the proposed renewal, after inquiry, you agree that no person or entity seeking coverage under this insurance has (1) had any claims that would fall within the scope of the proposed new coverage and/or additional limits; or (2) knowledge of any actual or alleged act, error, or omission which might reasonably be likely to lead to a claim under the proposed new coverage and/or additional limits.

If you do not agree with the above, please explain in a separate attachment.

Without prejudice to any of our other rights and remedies, you understand and agree that any claim arising from any such knowledge or information is excluded from the proposed new coverage and/or additional limits, if issued by us.

**Remainder of page intentionally left blank**

## APPLICATION DISCLOSURES:

If there is any material change in the answers to the questions in this Application before the proposed policy inception date, you must notify us in writing. In such case, we have the right to cancel, withdraw, or modify any outstanding quote for insurance coverage or any policy that may have been issued.

Your submission of this Application does not obligate us to issue, or require you to purchase, a policy. You authorize us to make any inquiry in connection with this Application.

All written statements and materials provided to us in conjunction with this Application are incorporated into this Application and made a part of it.

The undersigned, as your authorized representative or agent, declares to the best of their knowledge and belief and after reasonable inquiry, that the statements made in this Application are true, accurate, and complete. The undersigned agrees that we will rely on this Application in issuing any insurance policy providing the requested coverage, and that this Application will form the basis of any such insurance policy.

**Please read the following statement carefully and sign where indicated in the Applicant Information section below:**

The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that the limit of liability contained in this policy shall be reduced, and may be completely exhausted, by the costs of legal defense and, in such event, the insurer shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the limit of liability of this policy. The undersigned Applicant (or their representative authorized to sign on their behalf) hereby acknowledges that he/she is aware that legal defense costs that are incurred shall be applied against the retention amount.

**NOTICE TO APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT ACT, WHICH IS A CRIME AND MAY SUBJECT SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO ARKANSAS, NEW MEXICO AND WEST VIRGINIA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT, OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO COLORADO APPLICANTS:** IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AUTHORITIES.

**NOTICE TO DISTRICT OF COLUMBIA APPLICANTS:** WARNING: IT IS A CRIME TO PROVIDE FALSE OR MISLEADING INFORMATION TO AN INSURER FOR THE PURPOSE OF DEFRAUDING THE INSURER OR ANY OTHER PERSON. PENALTIES INCLUDE IMPRISONMENT AND/OR FINES. IN ADDITION, AN INSURER MAY DENY INSURANCE BENEFITS IF FALSE INFORMATION MATERIALLY RELATED TO A CLAIM WAS PROVIDED BY THE APPLICANT.

**NOTICE TO FLORIDA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

**NOTICE TO KANSAS APPLICANTS:** ANY PERSON WHO COMMITS A FRAUDULENT INSURANCE ACT IS GUILTY OF A CRIME AND MAY BE SUBJECT TO RESTITUTION, FINES AND CONFINEMENT IN PRISON. A FRAUDULENT INSURANCE ACT MEANS AN ACT COMMITTED BY ANY PERSON WHO, KNOWINGLY AND WITH INTENT TO DEFRAUD, PRESENTS, CAUSES TO BE PRESENTED OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, PURPORTED INSURER OR INSURANCE AGENT OR BROKER, ANY WRITTEN, ELECTRONIC, ELECTRONIC IMPULSE, FACSIMILE, MAGNETIC, ORAL, OR TELEPHONIC COMMUNICATION OR STATEMENT AS PART OF, OR IN SUPPORT OF, AN APPLICATION FOR INSURANCE, OR THE RATING OF AN INSURANCE POLICY, OR A CLAIM FOR PAYMENT OR OTHER BENEFIT UNDER AN INSURANCE POLICY, WHICH SUCH PERSON KNOWS TO CONTAIN MATERIALLY FALSE INFORMATION CONCERNING ANY MATERIAL FACT THERETO; OR CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO.

**NOTICE TO KENTUCKY APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME.

**NOTICE TO LOUISIANA APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR



INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO MAINE APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES OR A DENIAL OF INSURANCE BENEFITS.

**NOTICE TO MARYLAND APPLICANTS:** ANY PERSON WHO KNOWINGLY OR WILLFULLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR WHO KNOWINGLY OR WILLFULLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO NEW JERSEY APPLICANTS:** ANY PERSON WHO INCLUDES ANY FALSE OR MISLEADING INFORMATION ON AN APPLICATION FOR AN INSURANCE POLICY IS SUBJECT TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO OHIO APPLICANTS:** ANY PERSON WHO, WITH INTENT TO DEFRAUD OR KNOWING THAT HE IS FACILITATING A FRAUD AGAINST AN INSURER, SUBMITS AN APPLICATION OR FILES A CLAIM CONTAINING A FALSE OR DECEPTIVE STATEMENT IS GUILTY OF INSURANCE FRAUD.

**NOTICE TO OKLAHOMA APPLICANTS: WARNING:** ANY PERSON WHO KNOWINGLY, AND WITH INTENT TO INJURE, DEFRAUD OR DECEIVE ANY INSURER, MAKES ANY CLAIM FOR THE PROCEEDS OF AN INSURANCE POLICY CONTAINING ANY FALSE, INCOMPLETE OR MISLEADING INFORMATION IS GUILTY OF A FELONY (365:15-1-10, 36 §3613.1).

**NOTICE TO OREGON APPLICANTS:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS MATERIALLY FALSE INFORMATION IN AN APPLICATION FOR INSURANCE MAY BE GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN PRISON.

**NOTICE TO PENNSYLVANIA APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS SUCH PERSON TO CRIMINAL AND CIVIL PENALTIES.

**NOTICE TO TENNESSEE, VIRGINIA AND WASHINGTON APPLICANTS:** IT IS A CRIME TO KNOWINGLY PROVIDE FALSE, INCOMPLETE OR MISLEADING INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING THE INSURANCE COMPANY. PENALTIES INCLUDE IMPRISONMENT, FINES AND DENIAL OF INSURANCE BENEFITS.

**NOTICE TO VERMONT APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR, CONCEALS, FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, MAY BE GUILTY OF A CRIMINAL OFFENSE AND SUBJECT TO CIVIL PENALTIES UNDER STATE LAW.

**NOTICE TO NEW YORK APPLICANTS:** ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE STATED VALUE OF THE CLAIM FOR EACH SUCH VIOLATION.

**Applicant Information:**

Applicant Name:

By (Authorized Signature):

Name/Title:

Date:

**Producer Information:**

Producer Name:

\* Producer Signature:

Date:

Address of Producer:

Street:		
City:	State:	Zip:

E-Mail Address:

\*\* Producer License Number:

\* required only in the following State(s): Iowa  
\*\* required only in the following State(s): Florida

NAMED INSURED: XXXXXX

Page 1 of 2

**E2516.2 Listed Insured Person(s) Endorsement (Presumptive Indemnification)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the definition of “**Insured person**” is amended to include the following individual(s), but only for **claims** made against such individual(s) for any actual or alleged **wrongful act** occurring in their respective listed capacity and subject to such individual’s respective **continuity date**:

<u><b>Insured Person(s):</b></u>	<u><b>Capacity(ies):</b></u>	<u><b>Continuity Date(s):</b></u>
<INDIVIDUAL INSURED 1>	<CAPACITY 1>	<DATE 1>
<INDIVIDUAL INSURED 2>	<CAPACITY 2>	<DATE 2>
<INDIVIDUAL INSURED 3>	<CAPACITY 3>	<DATE 3>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:  
For purposes of this Coverage Part, **you, your, or insured** also includes the **insured person(s)** identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.
- III. In Section VII. Definitions, the following is added to the end of the definition of “**You, your, or insured**”:  
**You, your, or insured** also includes the **insured person(s)** identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.
- IV. The **insured organization** agrees to indemnify any **insured person** listed above to the fullest extent permitted by law, including the making in good faith of any required application for court approval.  
**You and we** agree that the **insured organization** will be conclusively deemed to have indemnified the **insured person(s)** listed above to the maximum extent that the **insured organization** is permitted or required to indemnify such **insured person(s)** pursuant to law, contract, or the **insured organization’s** charter, by-laws, operating agreement, or similar document(s).

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

Page 2 of 2

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

Page 1 of 2

**E2516.24 Listed Insured Person(s) Endorsement (Presumptive Indemnification)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the definition of “**Insured person**” is amended to include the following individual(s), but only for **claims** made against such individual(s) for any actual or alleged **wrongful act** occurring in their respective listed capacity and subject to such individual’s respective **continuity date**:

<u><b>Insured Person(s):</b></u>	<u><b>Capacity(ies):</b></u>	<u><b>Continuity Date(s):</b></u>
<INDIVIDUAL INSURED 1>	<CAPACITY 1>	<DATE 1>
<INDIVIDUAL INSURED 2>	<CAPACITY 2>	<DATE 2>
<INDIVIDUAL INSURED 3>	<CAPACITY 3>	<DATE 3>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the **insured person(s)** identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- III. In Section VII. Definitions, the following is added to the end of the definition of “**You, your, or insured**”:

**You, your, or insured** also includes the **insured person(s)** identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- IV. The **insured organization** agrees to indemnify any **insured person** listed above to the fullest extent permitted by law, including the making in good faith of any required application for court approval.

**You and we** agree that the **insured organization** will be conclusively deemed to have indemnified the **insured person(s)** listed above to the maximum extent that the **insured organization** is permitted or required to indemnify such **insured person(s)** pursuant to law, contract, or the **insured organization’s** charter, by-laws, operating agreement, or similar document(s).

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

Page 2 of 2

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

Page 1 of 1

**E2532.2 Additional Entity Coverage Endorsement (With Continuity Date)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the following is added to the end of the definition of **"Insured organization"**:

**Insured organization** also includes the following entity(ies), which is/are subject to the corresponding **continuity date(s)** listed below:

**Additional entity(ies):**

**Continuity date:**

<ENTITY\_1>

<DATE>

<ENTITY\_2>

<DATE>

<ENTITY\_3>

<DATE>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- III. In Section VII. Definitions, the following is added to the end of the definition of **"You, your, or insured"**:

**You, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

Page 1 of 1

**E2532.24 Additional Entity Coverage Endorsement (With Continuity Date)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the following is added to the end of the definition of **"Insured organization"**:

**Insured organization** also includes the following entity(ies), which is/are subject to the corresponding **continuity date(s)** listed below:

**Additional entity(ies):**

**Continuity date:**

<ENTITY\_1>

<DATE>

<ENTITY\_2>

<DATE>

<ENTITY\_3>

<DATE>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- III. In Section VII. Definitions, the following is added to the end of the definition of **"You, your, or insured"**:

**You, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)



NAMED INSURED: XXXXXX

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**E2533.2 Additional Entity Coverage Endorsement (With Sublimit, Co-Defendant Coverage, Continuity Date)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

If selected below, the Coverage Part(s) selected above is amended as follows:

- ☐ In Section VII. Definitions, the following is added to the end of the definition of “**Insured organization**”:

**Insured organization** also includes the following entity(ies), which is/are subject to the corresponding **continuity date(s)** listed below:

**Additional entity(ies):**

**Continuity date:**

<COMPANY>

<DATE>

<COMPANY>

<DATE>

- ☐ In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- ☐ In Section VII. Definitions, the following is added to the end of the definition of “**You, your, or insured**”:

**You, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- ☐ Coverage under this policy for any **additional entity(ies)** or its **insured persons** will be provided solely for **claims**:

1. resulting from a covered **wrongful act** actually or allegedly committed by another **insured**; and
2. brought and maintained against both the **additional entity(ies)** or its **insured person(s)** and such other **insured**.

Coverage will be available for such **additional entity(ies)** or its **insured person(s)** only while both such **additional entity(ies)** or its **insured person(s)** and the other **insured** are defendants in the same action.

The **additional entity(ies)** above and the **insured organization** agree to indemnify, and will be conclusively deemed to have indemnified, the **additional entity(ies)’s insured persons** to the extent permitted or required pursuant to law, contract, or the charter or by-laws of such **additional**

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX  
**entity(ies).**

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- ☐ All **loss** resulting from any covered **claim** brought against any **additional entity(ies)** listed above will be subject to a sublimit of \$<SUBLIMIT>, in the aggregate, which will be a part of, and not in addition to, the **coverage part limit**.

All other terms and conditions remain unchanged.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2533.24 Additional Entity Coverage Endorsement (With Sublimit, Co-Defendant Coverage, Continuity Date)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

If selected below, the Coverage Part(s) selected above is amended as follows:

- ☐ In Section VII. Definitions, the following is added to the end of the definition of **"Insured organization"**:

**Insured organization** also includes the following entity(ies), which is/are subject to the corresponding **continuity date(s)** listed below:

**Additional entity(ies):**

**Continuity date:**

<COMPANY>

<DATE>

<COMPANY>

<DATE>

- ☐ In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- ☐ In Section VII. Definitions, the following is added to the end of the definition of **"You, your, or insured"**:

**You, your, or insured** also includes the entities identified in Section I of this Endorsement, subject to their corresponding **continuity date(s)**.

- ☐ Coverage under this policy for any **additional entity(ies)** or its **insured persons** will be provided solely for **claims**:

1. resulting from a covered **wrongful act** actually or allegedly committed by another **insured**; and

2. brought and maintained against both the **additional entity(ies)** or its **insured person(s)** and such other **insured**.

Coverage will be available for such **additional entity(ies)** or its **insured person(s)** only while both such **additional entity(ies)** or its **insured person(s)** and the other **insured** are defendants in the same action.

The **additional entity(ies)** above and the **insured organization** agree to indemnify, and will be conclusively deemed to have indemnified, the **additional entity(ies)'s insured persons** to the extent permitted or required pursuant to law, contract, or the charter or by-laws of such **additional**

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX  
**entity(ies).**

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- ☐ All **loss** resulting from any covered **claim** brought against any **additional entity(ies)** listed above will be subject to a sublimit of \$<SUBLIMIT>, in the aggregate, which will be a part of, and not in addition to, the **coverage part limit**.

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All other terms and conditions remain unchanged.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2587.2 Optional Duty to Pay Endorsement (With Pre-Approved Counsel When Duty to Pay)**  
**EPL**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

Section IV. Defense and settlement of claims is deleted in its entirety and replaced with the following:

Defense

- A. 1. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

2. However, the **named insured** will have the right to assume the defense of any covered **claim**, so long as **we** receive written notice of **your** election to assume the defense within 30 days after **you** first report the **claim** to **us**.

If **you** assume the defense of a **claim**, **you** will have the duty to retain defense counsel on **your** own behalf. Notwithstanding, **you** must obtain **our** prior written consent to **your** selection of defense counsel, and **you** agree to advise **us** in advance regarding:

- a. litigation strategy; and
- b. settlement negotiations.

**We** will be entitled to effectively associate in the investigation, evaluation, negotiation, defense, or settlement of any **claim**.

3. Solely if **you** have assumed the defense of a **claim** pursuant to paragraph 2 above, **you** may retain the following defense counsel without **our** prior written consent to defend an otherwise covered **claim** made or initiated against **you** which is brought in the jurisdiction(s) listed below in which the law firm(s) maintains an office:

<FIRM/LAWYER>



NAMED INSURED: XXXXXX

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Billing rates for the above law firm will not exceed the following:

Partners	\$<RATE>/hour
Associates	\$<RATE>/hour
Paralegals	\$<RATE>/hour

The above listed rates will apply for the life of any **claim** as long as the **claim** is in any way covered under this policy. The rates will be applied to: (i) all covered **claim expenses**; and (ii) all **claim expenses** applied against any applicable **retention**. **You** will bear, at **your** own expense, that portion of any fees charged by the above law firm(s) that exceeds the applicable rates set forth in this Endorsement.

**You** agree to require the above law firm(s) to follow **our** litigation guidelines, copies of which will be provided to **you** upon request and/or to the above law firm(s) once a **claim** that such firm has been retained to handle is submitted to **us**.

4. At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably.

If **you** have not assumed the defense of a **claim**, and **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

Allocation

- C. 1. The following allocation provisions will apply to all **claims** that **we** defend on **your** behalf:

If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:

NAMED INSURED: XXXXXX

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- a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. However, if **you** have assumed the defense of any **claim**, **we** will not make any payments for any portion(s) of the **claim** not covered by this Coverage Part. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will allocate all amounts, including **claim expenses**, on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  3. In all events, **we** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2587.42 Optional Duty to Pay Endorsement (With Pre-Approved Counsel When Duty to Pay) EPL**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

Section IV. Defense and settlement of claims is deleted in its entirety and replaced with the following:

Defense

- A. 1. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

2. However, the **named insured** will have the right to assume the defense of any covered **claim**, so long as **we** receive written notice of **your** election to assume the defense within 30 days after **you** first report the **claim** to **us**.

If **you** assume the defense of a **claim**, **you** will have the duty to retain defense counsel on **your** own behalf. Notwithstanding, **you must obtain our prior written consent to your selection of defense counsel, and** **-you** agree to advise **us** in advance regarding:

- ~~a. the selection of defense counsel, staffing, and billing rates;~~
- ~~a~~b. litigation strategy; and
- ~~b~~e. settlement negotiations.

**We** will be entitled to effectively associate in the investigation, evaluation, negotiation, defense, or settlement of any **claim**.

3. Solely if **you** have assumed the defense of a **claim** pursuant to paragraph 2 above, **you** may retain the following defense counsel without **our** prior written consent to defend an otherwise covered **claim** made or initiated against **you** which is brought in the jurisdiction(s) listed below in which the law firm(s) maintains an office:





NAMED INSURED: XXXXXX

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~~Walter Haverfield, Ohio office~~ **<FIRM/LAWYER>**

Billing rates for the above law firm will not exceed the following:

Partners	\$ <del>250</del> <b>&lt;RATE&gt;</b> /hour
Associates	\$ <del>200</del> <b>&lt;RATE&gt;</b> /hour
Paralegals	\$ <del>85</del> <b>&lt;RATE&gt;</b> /hour

The above listed rates will apply for the life of any **claim** as long as the **claim** is in any way covered under this policy. The rates will be applied to: (i) all covered **claim expenses**; and (ii) all **claim expenses** applied against any applicable **retention**. **You** will bear, at **your** own expense, that portion of any fees charged by the above law firm(s) that exceeds the applicable rates set forth in this Endorsement.

**You** agree to require the above law firm(s) to follow **our** litigation guidelines, copies of which will be provided to **you** upon request and/or to the above law firm(s) once a **claim** that such firm has been retained to handle is submitted to **us**.

4. At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably.

If **you** have not assumed the defense of a **claim**, and **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

Allocation

- C. 1. The following allocation provisions will apply to all **claims** that **we** defend on **your** behalf:

If there is both covered **loss** and uncovered loss in connection

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with the same **claim**, **we** will make payment as follows:

- a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. However, if **you** have assumed the defense of any **claim**, **we** will not make any payments for any portion(s) of the **claim** not covered by this Coverage Part. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will allocate all amounts, including **claim expenses**, on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  3. In all events, **we** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Endorsement No: X

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2616.2 Discovery Period Elected Endorsement (With Winding Up Coverage)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In the General Terms and Conditions, Section IV. Discovery period is deleted in its entirety and replaced with the following:
- A. **You** have purchased a **discovery period** for the length of time and at the percentage of the expiring premium stated below, which allows **you** to notify **us** of certain **claims** after the expiration of the policy period stated in Item 2 of the Declarations.
- B. The **discovery period** **you** have purchased is:
- Inception Date: <X/XX/XXXX>      Expiration Date: <X/XX/XXXX>
- Additional premium: \$<AP>
- The additional premium stated above will be fully earned at the inception of the **discovery period**.
- C. The **discovery period** will apply only to **claims** that:
1. are first made against **you** and reported to **us** during the **discovery period**; and
  2. arise from:
    - a. **wrongful acts** that take place prior to the effective date of cancellation or non-renewal of this policy; or
    - b. a **breach** that takes place on or after the **retroactive date** but prior to the effective date of the cancellation or non-renewal of this policy.
- We** will not be liable to make any payment for **loss** in connection with any **claim** made against **you** during the **discovery period** which arises out of a **wrongful act** committed on or after the **effective date**, except as otherwise provided in part D below.
- D. The **named insured** will also have a period of <NUMBER YEARS> year(s) following the inception of the **discovery period** in which to give **us** written notice of **claims** made against a **wind up insured person** alleging a **wind up wrongful act** occurring on or after the inception of the **discovery period** ("wind up period").
- The **wind up period** will only apply to **claims** made against a **wind up insured person** arising out of a **wind up wrongful act** committed on or after the inception of the **discovery period** and before the conclusion of the **wind up period**.

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However, the **named insured** may report **claims** arising out of **wind up wrongful acts** during the remaining **discovery period** if the **wind up wrongful act** was committed on or after inception of the **discovery period** but before the conclusion of the **wind up period**.

- E. The premium for the **discovery period** and **wind up period** will be fully earned as of the **effective date**.

- II. In the General Terms and Conditions, Section V. Other provisions affecting coverage, part C. Cancellation is deleted in its entirety and replaced with the following:

**We** will only cancel this policy if **you** fail to pay the premium within <#DAYS> days of the Inception Date of the **discovery period** identified in Section I of this Endorsement.

If **you** have purchased a Crime Coverage Part, the rules for cancellation contained in Section V. Your obligations, D. Cancellation of that Coverage Part will govern its cancellation.

- III. In the General Terms and Conditions, Section V. Other provisions affecting coverage, part D. Change in control is deleted in its entirety.

- IV. Solely with respect to the coverage provided by this Endorsement, in the General Terms and Conditions, the following definitions are added to the end of Section VI. Definitions applicable to all Coverage Parts:

**Wind up insured person** means the following person(s) (including their replacements, if applicable):

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

**Wind up wrongful act** means any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by any **wind up insured person** during the process of winding up the affairs of the **named insured**, including the settling and closing of its business, disposal and conveyance of its property, discharge of its liabilities, and distribution to its stockholders any remaining assets after the inception of the **discovery period**.

- V. If selected above, the D&O Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit for loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

- VI. If selected above, the POL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the

NAMED INSURED: XXXXXX

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following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

VII. If selected above, the ELL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **wrongful act** or **educators wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

VIII. If selected above, the EPL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **employment practices wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

IX. If selected above, the Fiduciary Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **fiduciary wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

X. If selected above, the Employed Lawyers Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

NAMED INSURED: XXXXXX

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**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged:

1. **employed lawyers wrongful act** that takes place prior to the Inception Date; or
2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2616.24 Discovery Period Elected Endorsement (With Winding Up Coverage)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In the General Terms and Conditions, Section IV. Discovery period is deleted in its entirety and replaced with the following:
  - A. **You** have purchased a **discovery period** for the length of time and at the percentage of the expiring premium stated below, which allows **you** to notify **us** of certain **claims** after the expiration of the policy period stated in Item 2 of the Declarations.
  - B. The **discovery period** **you** have purchased is:
 

Inception Date:      <X/XX/XXXX>      Expiration Date:      <X/XX/XXXX>

Additional premium: \$<AP>

The additional premium stated above will be fully earned at the inception of the **discovery period**.
  - C. The **discovery period** will apply only to **claims** that:
    1. are first made against **you** and reported to **us** during the **discovery period**; and
    2. arise from:
      - a. **wrongful acts** that take place prior to the effective date of cancellation or non-renewal of this policy; or
      - b. a **breach** that takes place on or after the **retroactive date** but prior to the effective date of the cancellation or non-renewal of this policy.

**We** will not be liable to make any payment for **loss** in connection with any **claim** made against **you** during the **discovery period** which arises out of a **wrongful act** committed on or after the **effective date**, except as otherwise provided in part D below.
  - D. The **named insured** will also have a **wind-up period** of <NUMBER YEARS> year(s) following the inception of the **discovery period** in which to give **us** written notice of **claims** made against a **wind up insured person** alleging a **wind up wrongful act** occurring on or after the inception of the **discovery period** ("**wind up period**").

The **wind up period** will only apply to **claims** made against a **wind up insured person** arising out of a **wind up wrongful act** committed on or after the inception of the **discovery**

NAMED INSURED: XXXXXX

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**period** and before the conclusion of the **wind up** ~~wrongful act~~ **period**.

However, the **named insured** may report **claims** arising out of **wind up wrongful acts** during the remaining **discovery period** if the **wind up wrongful act** was committed on or after inception of the **discovery period** but before the conclusion of the **wind up** ~~wrongful act~~ **period**.

E. The premium for the **discovery period** and **wind up period** will be fully earned as of the **effective date**.

II. In the General Terms and Conditions, Section V. Other provisions affecting coverage, part C. Cancellation is deleted in its entirety and replaced with the following:

**We** will only cancel this policy if **you** fail to pay the premium within <#DAYS> days of the Inception Date of the **discovery period** identified in Section I of this Endorsement.

If **you** have purchased a Crime Coverage Part, the rules for cancellation contained in Section V. Your obligations, D. Cancellation of that Coverage Part will govern its cancellation.

III. In the General Terms and Conditions, Section V. Other provisions affecting coverage, part D. Change in control is deleted in its entirety.

IV. Solely with respect to the coverage provided by this Endorsement, in the General Terms and Conditions, the following definitions are added to the end of Section VI. Definitions applicable to all Coverage Parts:

**Wind up insured person** means the following person(s) (including their replacements, if applicable):

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

<NAME\_OF\_INDIVIDUAL\_INSURED\_FOR\_WIND\_UP>

**Wind up wrongful act** means any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by any **wind up insured person** during the process of winding up the affairs of the **named insured**, including the settling and closing of its business, disposal and conveyance of its property, discharge of its liabilities, and distribution to its stockholders any remaining assets after the inception of the **discovery period**.

V. If selected above, the D&O Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged: ~~wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **wrongful act that takes place prior to the Inception Date; or**



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2. **wind up wrongful act** that takes place during the **wind up period**, as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

VI. If selected above, the POL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged ~~wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **wrongful act** that takes place prior to the Inception Date; or

2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

VII. If selected above, the ELL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged ~~wrongful act or educators wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **wrongful act or educators wrongful act** that takes place prior to the Inception Date; or

2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

VIII. If selected above, the EPL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged ~~employment practices wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **employment practices wrongful act** that takes place prior to the Inception Date; or

2. **wind up wrongful act** that takes place during the **wind up period**,

as follows, provided the **claim** is first made against **you** during the **discovery period** and is

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reported to us in accordance with Section V. Your obligations.

IX. If selected above, the Fiduciary Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged: ~~fiduciary wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **fiduciary wrongful act** that takes place prior to the Inception Date; or

2. **wind up wrongful act** that takes place during the **wind up period**.

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

X. If selected above, the Employed Lawyers Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged: ~~employed lawyers wrongful act that takes place prior to the Inception Date as follows, provided the claim is first made against you during the discovery period and is reported to us in accordance with Section V. Your obligations:~~

1. **employed lawyers wrongful act** that takes place prior to the Inception Date; or

2. **wind up wrongful act** that takes place during the **wind up period**.

as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations.

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Endorsement No: X

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2655.2 Sexual Misconduct/Child Abuse Exclusion Endorsement (Harassment Carveback)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☒ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to the entire Coverage Part in the D&O Coverage Part and the Fiduciary Coverage Part (if purchased):

Sexual misconduct/ child abuse      SM-1. based upon or arising out of any:

- a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
- b. actual, alleged, or threatened child abuse or neglect; or
- c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

- II. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to claims in the EPL Coverage Part (if purchased):

Sexual misconduct/ child abuse      SM-1. based upon or arising out of any:

- a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
- b. actual, alleged, or threatened child abuse or neglect; or
- c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

However, this exclusion will not apply to an otherwise covered **claim** against **you** alleging harassment, sexual harassment, or hostile work environment as described in:

- i. subparagraph 1.d. of the definition of **employment practices wrongful act**; or
- ii. the definition of **third party violation**.

Hiscox Insurance Company Inc.



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Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)



**E2655.4-2 Sexual Misconduct/Child Abuse Exclusion Endorsement (Harassment Carveback)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☒ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to the entire Coverage Part in the D&O Coverage Part and the Fiduciary Coverage Part (if purchased):

Sexual misconduct/ SM-1. based upon or arising out of any:  
child abuse

- a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
- b. actual, alleged, or threatened child abuse or neglect; or
- c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

- II. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to claims in the EPL Coverage Part (if purchased):

Sexual misconduct/ SM-1. based upon or arising out of any:  
child abuse

- a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
- b. actual, alleged, or threatened child abuse or neglect; or
- c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

However, this exclusion will not apply to an otherwise covered **claim** against **you** alleging harassment, sexual harassment, or hostile work environment as described in: ~~subparagraph 1.d. of the definition of employment practices wrongful act.~~

- i. subparagraph 1.d. of the definition of employment practices wrongful act; or

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Hiscox Insurance Company Inc.



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ii. the definition of **third party violation**.

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Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2694.1 Exercise Discovery Period Endorsement (Straddle Language)**

- ☐ **Declarations**
- ☒ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. In the General Terms and Conditions, Section IV. Discovery period is deleted in its entirety and replaced with the following:

A. **You** have purchased a **discovery period** for the length of time and at the percentage of the expiring premium stated below, which allows **you** to notify **us** of certain **claims** after the expiration of the policy period stated in Item 2 of the Declarations.

B. The **discovery period** **you** have purchased is:

Inception Date: <XX/XX/XXXX> Expiration Date: <XX/XX/XXXX>

Additional premium: \$<AP>

The additional premium stated above will be fully earned at the inception of the **discovery period**.

C. The **discovery period** will apply only to **claims** that:

1. are first made against **you** and reported to **us** during the **discovery period**; and
2. arise from:
  - a. **wrongful acts** that take place prior to the effective date of cancellation or non-renewal of this policy; or
  - b. a **breach** that takes place on or after the **retroactive date** but prior to the effective date of the (i) cancellation or non-renewal of this policy.

However, if a **claim** alleges **related wrongful acts** occurring both before and on or after the Inception Date of the **discovery period**, then only that portion of **loss** attributable to **wrongful acts** occurring on or after the Inception Date will be excluded.

II. In the General Terms and Conditions, Section V. Other provisions affecting coverage, C. Cancellation is deleted in its entirety and replaced with the following:

**We** will only cancel this policy if **you** fail to pay the premium within <#DAYS> days of the Inception Date of the **discovery period** identified in Section I of this Endorsement.

III. In the General Terms and Conditions, D. Change in control is deleted in its entirety.

IV. If selected above, the D&O Coverage Part is amended as follows:



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The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

- V. If selected above, the POL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

- VI. If selected above, the ELL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** or **educators wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

- VII. If selected above, the EPL Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **employment practices wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

- VIII. If selected above, the Fiduciary Coverage Part is amended as follows:

The preamble to Section I. Insuring agreement is deleted in its entirety and replaced with the following:

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **fiduciary wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

- IX. If selected above, the Employed Lawyers Coverage Part is amended as follows:

The preamble to Section I. Insuring agreements is deleted in its entirety and replaced with the following:



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**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **employed lawyers wrongful act** that takes place prior to the Inception Date as follows, provided the **claim** is first made against **you** during the **discovery period** and is reported to **us** in accordance with Section V. Your obligations:

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2697.1 Optional Duty to Pay Endorsement (Pre-Approved Counsel; Retention Reduction Incentive)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. Section IV. Defense and settlement of claims is deleted in its entirety and replaced with the following:

Defense

- A. 1. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

2. However, the **named insured** will have the right to assume the defense of any covered **claim**, so long as **we** receive written notice of **your** election to assume the defense within 30 days after **you** first report the **claim** to **us**.

If **you** assume the defense of a **claim**, **you** will have the duty to retain defense counsel on **your** own behalf.

Notwithstanding, **you** must obtain **our** prior written consent to **your** selection of defense counsel, and **you** agree to advise **us** in advance regarding:

- a. litigation strategy; and
- b. settlement negotiations.

**We** will be entitled to effectively associate in the investigation, evaluation, negotiation, defense, or settlement of any **claim**.

3. Solely if **you** have assumed the defense of a **claim** pursuant to paragraph 2 above, **you** may retain the following defense counsel without **our** prior written consent to defend an otherwise covered **claim** made or initiated against **you** which is brought in the jurisdiction(s) listed below in which the law firm(s) maintains an office:

[LAW FIRM]

NAMED INSURED: XXXXXX

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**[JURISDICTION]**

Billing rates for the above law firm will not exceed the following:

Partners	\$<RATE>/hour
Associates	\$<RATE>/hour
Paralegals	\$<RATE>/hour

The above listed rates will apply for the life of any **claim** as long as the **claim** is in any way covered under this policy. The rates will be applied to: (i) all covered **claim expenses**; and (ii) all **claim expenses** applied against any applicable **retention**. **You** will bear, at **your** own expense, that portion of any fees charged by the above law firm(s) that exceeds the applicable rates set forth in this Endorsement.

**You** agree to require the above law firm(s) to follow **our** litigation guidelines, copies of which will be provided to **you** upon request and/or to the above law firm(s) once a **claim** that such firm has been retained to handle is submitted to **us**.

4. At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably.

If **you** have not assumed the defense of a **claim**, and **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

NAMED INSURED: XXXXXX

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Allocation

- C. 1. The following allocation provisions will apply to all **claims** that **we** defend on **your** behalf:
- If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:
- a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. However, if **you** have assumed the defense of any **claim**, **we** will not make any payments for any portion(s) of the **claim** not covered by this Coverage Part. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will allocate all amounts, including **claim expenses**, on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
3. In all events, **we** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

II. The following paragraph is added to the end of Section V. Your obligations, C. Retention:

The **retention** will be reduced by 20% for any **claim**:

1. for which **you** have the obligation to choose defense counsel; and
2. **you** retain Littler Mendelson.

However, if an actual conflict of interest requires **us** or **you** to retain any firm(s) other than Littler Mendelson P.C. to defend **you** with respect to any **claim** for which **you** have not assumed the defense, the **retention** will still be reduced by 20% for such **claim** so long as the firm(s) retained to defend **you** is one of **our** preferred counsel.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

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By:  
(Appointed Representative)

NAMED INSURED:

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**E2698.1 Tie-In of Limits Endorsement (ESOP)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Parts selected above are amended as follows:

The maximum amount **we** will be obligated to pay for all **loss** under all Coverage Parts selected in this Endorsement combined, or any renewal or replacement, for any covered **claims** arising out of any employee stock ownership plan ("ESOP") will be one **coverage part limit** in the aggregate, which will be the highest available **coverage part limit**.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED:

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**E2699.1 Returned Premium for Specified Endorsement(s) Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

For the returned premium amount(s) indicated below, the following endorsement(s) is attached to and forms a part of this policy:

<b><u>Endorsement Title</u></b>	<b><u>Returned Premium</u></b>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF RP>

All other terms and conditions remain unchanged.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)



NAMED INSURED:

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**E2700.1 Additional Premium for Specified Endorsement(s) Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

For the additional premium amount(s) indicated below, the following endorsement(s) is attached to and forms a part of this policy:

<b><u>Endorsement Title</u></b>	<b><u>Additional Premium</u></b>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>
EXXXX.X <ENDORSEMENT TITLE>	\$<AMOUNT OF AP>

All other terms and conditions remain unchanged.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED:

Page 1 of 1

**E2701.1 Amend Endorsement Effective Date Endorsement**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed:

Solely with respect to the Endorsement described below which is attached to and forms a part of this policy, the effective date is amended to <NEWEFFECTIVEDATE>.

Endorsement: E<XXXX>.<X> <ENDORSEMENT TITLE>

All other terms and conditions remain unchanged.

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Endorsement No: X

By:  
(Appointed Representative)

NAMED INSURED:

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**E2702.1 Reinstatement of Policy Endorsement**

In consideration of an additional premium of \$<REINSTATE PREMIUM>, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed Endorsement E<CANCELLATION ENDORSEMENT#> is deleted in its entirety.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2855.1 Professional Services Exclusion Endorsement (Failure to Supervise Carveback)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

The following exclusion is added to the end of Section VI. Exclusions –What is not covered, Exclusions applicable to the entire Coverage Part:

Professional services      PS-1. based upon or arising out of any actual or alleged negligent act, error, or omission in **your** performance of or failure to perform any professional services for others; however, this exclusion will not apply to any **claim** alleging an **insured's** failure to supervise another **insured** in the performance of such professional services.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E1271.1 Amend Antitrust Coverage Enhancement Endorsement (Separate Retention and Split Limit)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

In Section II. Coverage enhancements, D. Antitrust coverage is deleted and replaced with the following:

**We** will pay up to the sublimits stated below, in the aggregate, for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

For **loss** resulting from a **claim** against an **insured person**      \$<LIMIT\_1>  
and which is covered under Insuring agreement A. Individual  
insurance or B. Insured organization reimbursement:

For **loss** resulting from a **claim** against an **insured**      \$<LIMIT\_2>  
**organization** and which is covered under Insuring agreement  
C. Insured organization insurance:

The sublimits listed above will be shared, and any payments **we** make under any one sublimit will reduce the limit for both sublimits. If the sublimits listed above are different, the maximum amount **we** will pay under D. Antitrust coverage will be the highest of the applicable sublimits.

**You** must pay the following **retention** amounts, and not the amount stated as such in the Declarations, before **we** will be obligated to make any payment under this subsection D:

1. For **loss** resulting from a **claim** against an **insured person** and which is covered under Insuring agreement A. Individual insurance or B. Insured organization reimbursement, the **retention** will be \$<RETENTION\_1>.
2. For **loss** resulting from a **claim** against an **insured organization** and which is covered under Insuring agreement C. Insured organization insurance, the **retention** will be \$<RETENTION\_1>.

For all **loss** in excess of the above **retention** amounts, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insured. Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

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By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2817.2 TCPA Defense Costs Sublimit Endorsement**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

TCPA defense  
sublimit

TC-A. **We** will pay up to \$<LIMIT>, in the aggregate, for all **claim expenses** (but not any other **loss**) incurred in connection with any **claims** for violation of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, provided the **claim** is first made against **you** during the **policy period**, and is reported to **us** in accordance with Section V. Your obligations.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection TC-A, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

II. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to the entire Coverage Part:

TC-A. for violation(s) of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, except that **we** will pay **claim expenses** incurred in the defense of such **claims** to the extent they are covered under Coverage enhancement TC-A. TCPA defense sublimit.

III. In Section VI. Exclusions – What is not covered, Exclusions applicable only to Insuring agreement C. Insured organization insurance, the “Invasion of privacy/assault and battery” exclusion (if present in the applicable purchased D&O Coverage Part) is deleted in its entirety and replaced with the following:

for injury resulting from libel, slander, oral or written publication of defamatory or disparaging material, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, malicious use or abuse of process, assault, battery, or loss of consortium, except that **we** will pay **claim expenses** incurred in the defense of any such **claims** for violation of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, to the extent they are covered under Coverage enhancement TC-A. TCPA defense sublimit.

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

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Endorsement No: X

By:  
(Appointed Representative)



NAMED INSURED: XXXXXX

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**E2817.42 TCPA Defense Costs Sublimit Endorsement**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☒ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

TCPA defense  
sublimit

TC-A. **We** will pay up to \$<LIMIT>, in the aggregate, for all **claim expenses** (but not any other **loss**) incurred in connection with any **claims** for violation of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, provided the **claim** is first made against **you** during the **policy period**, and is reported to **us** in accordance with Section V. Your obligations.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection TC-A, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

II. The following exclusion is added to the end of Section VI. Exclusions – What is not covered, Exclusions applicable to the entire Coverage Part:

TC-A. for violation(s) of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, except that **we** will pay **claim expenses** incurred in the defense of such **claims** to the extent they are covered under Coverage enhancement TC-A. TCPA defense sublimit.

III. In Section VI. Exclusions – What is not covered, ~~subpart c of the~~ “Exclusions applicable only to Insuring agreement C. Insured organization insurance, the “Invasion of privacy/assault and battery” exclusion (if present in the applicable purchased D&O Coverage Part) is deleted in its entirety and replaced with the following:

for injury resulting from libel, slander, oral or written publication of defamatory or disparaging material, invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, malicious prosecution, malicious use or abuse of process, assault, battery, or loss of consortium, except that **we** will pay **claim expenses** incurred in the defense of any such **claims** for violation of the Telephone Consumer Protection Act, as may be amended, or any similar federal, state, or local statutes, ordinances, or regulations, to the extent they are covered under Coverage enhancement TC-A. TCPA defense sublimit.

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Hiscox Insurance Company Inc.



NAMED INSURED: XXXXXX

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Endorsement No: X

By:  
(Appointed Representative)



NAMED INSURED: XXXXXXX

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### **E2863.2 Add Entity as Insured for Specific Location Only Endorsement**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the following is added to the end of the definition of “**Insured organization**”:

**Insured organization** also includes <ENTITY>, but solely to the extent:

- A. a **claim** made against <ENTITY> or its **employee** is based upon or arises out of an actual or alleged **employment practices wrongful act** committed by an **insured** in connection with the property identified below; and
- B. such **claim** is also brought and maintained against both <ENTITY> and such other **insured**.

Coverage will be available to <ENTITY> only while both <ENTITY> and the other **insured** are defendants in the same action.

Property:                   <PROPERTY NAME>  
                              <PROPERTY ADDRESS>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:

For purposes of this Coverage Part, **you, your, or insured** also includes the entity identified in Section I of this Endorsement.

- III. In Section VII. Definitions, the following is added to the end of the definition of “**You, your, or insured**”:

**You, your, or insured** also includes the entity identified in Section I of this Endorsement.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

### **E2863.24 Add Entity as Insured for Specific Location Only Endorsement**

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/>            | <b>Declarations</b>                             |
| <input type="checkbox"/>            | <b>General Terms and Conditions</b>             |
| <input type="checkbox"/>            | <b>D&amp;O Coverage Part</b>                    |
| <input type="checkbox"/>            | <b>Public Officials Liability Coverage Part</b> |
| <input type="checkbox"/>            | <b>Educators Legal Liability Coverage Part</b>  |
| <input checked="" type="checkbox"/> | <b>EPL Coverage Part</b>                        |
| <input type="checkbox"/>            | <b>Fiduciary Coverage Part</b>                  |
| <input type="checkbox"/>            | <b>Employed Lawyers Coverage Part</b>           |

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

- I. In Section VII. Definitions, the following is added to the end of the definition of “**Insured organization**”:

**Insured organization** also includes <ENTITY>, but solely to the extent:

- Aa.** a **claim** made against <ENTITY> or its **employee** is based upon or arises out of an actual or alleged **employment practices wrongful act** committed by an **insured** in connection with the property identified below; and
- Bb.** such **claim** is also brought and maintained against both <ENTITY> and such other **insured**.

Coverage will be available to <ENTITY> only while both <ENTITY> and the other **insured** are defendants in the same action.

Property:                   <PROPERTY NAME>  
                              <PROPERTY ADDRESS>

- II. In Section III. Who is an insured, the following is added to the end of the preamble:**

For purposes of this Coverage Part, **you, your, or insured** also includes the entity identified in Section I of this Endorsement.

- III. In Section VII. Definitions, the following is added to the end of the definition of “You, your, or insured”:**

**You, your, or insured** also includes the entity identified in Section I of this Endorsement.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2871.2 Wage and Hour Defense Sublimit with Separate Retention Endorsement**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

Wage and hour defense sublimit      WH-A. **We** will pay up to the Wage and Hour Defense Sublimit stated below, in the aggregate, for **claim expenses** allocated to the portion of any otherwise covered **claim** including a **wage and hour violation**.

This subsection WH-A. applies only to **claim expenses** and **we** will have no obligation to pay any other **loss** in connection with any **wage and hour violation**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection WH-A., and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Wage and Hour Defense Sublimit: \$<LIMIT> in the aggregate

II. If an amount is stated below, the **retention** for any **claim** alleging a **wage and hour violation** will be the amount stated below and not the amount stated in the Declarations.

Wage and Hour Retention      \$<RETENTION> each **claim**

III. Solely with respect to any **claim** that includes any alleged **wage and hour violation**, in Section VI. Exclusions – What is not covered, Exclusions applicable to claims, the following is added to the end of the “Compensation violations”, “Statutory violations”, and “Wage and payroll” exclusions:

However, **we** will pay **claim expenses** incurred in the investigation, defense, or appeal of any **claim** including a **wage and hour violation**, but only to the extent such **claim expenses** are covered under Section II. Coverage enhancements, WH-A. Wage and hour defense sublimit.

IV. The following definition is added to Section VII. Definitions:

**Wage and hour violation**      means any actual or alleged violation of, or failure to comply with, any obligation under any statute, ordinance, regulation, common law, or agreement to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation to any **employee**, including but not limited to any obligation:

NAMED INSURED: XXXXXX

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1. under the Fair Labor Standards Act (except the Equal Pay Act), as may be amended, or any similar provisions of any state, local, or foreign law or any rules or regulations promulgated under such laws;
2. to pay for overtime, reporting time, time for meal or rest breaks, donning and doffing time, reporting time, travel time, or reimbursement of expenses;
3. to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation within a certain period of time;
4. to provide complete, correct, or itemized statements of wages, salary, employee benefits, employee expense reimbursement or other compensation, including any obligation to maintain necessary and accurate records of employment necessary for such statements; and
5. regarding the proper classification of **employees** as exempt or non-exempt or prohibiting improper or inaccurate deductions.

**Wage and hour violation** does not include any:

- a. obligation to pay tort-based back pay;
- b. obligation to pay front pay for non-conversion related torts;
- c. obligation arising under the Employee Retirement Income Security Act of 1974 (ERISA), as may be amended or any rules or regulations promulgated under ERISA; or
- d. **claim for retaliation.**

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2871.24 Wage and Hour Defense Sublimit with Separate Retention Endorsement**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

Wage and hour defense sublimit      WH-A. **We** will pay up to the Wage and Hour Defense Sublimit stated below, in the aggregate, for **claim expenses** allocated to the portion of any otherwise covered **claim** including a **wage and hour violation**.

This subsection WH-A. applies only to **claim expenses** and **we** will have no obligation to pay any other **loss** in connection with any **wage and hour violation**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection WH-A., and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Wage and Hour Defense Sublimit: \$<LIMIT> in the aggregate

II. If an amount is stated below, the **retention** for any **claim** alleging a **wage and hour violation** will be the amount stated below and not the amount stated in the Declarations.

Wage and Hour Retention      \$<RETENTION> each **claim**

III. Solely with respect to any **claim** that includes any alleged **wage and hour violation**, in Section VI. Exclusions – What is not covered, Exclusions applicable to claims, the following is added to the end of the “Compensation violations”, “Statutory violations”, and “Wage and payroll” exclusions:

However, **we** will pay **claim expenses** incurred in the investigation, defense, or appeal of any **claim** including a **wage and hour violation**, but only to the extent such **claim expenses** are covered under Section II. Coverage enhancements, WH-A. Wage and hour defense sublimit.

IV. The following definition is added to Section VII. Definitions:

**Wage and hour violation**      means any actual or alleged violation of, or failure to comply with, any obligation under any statute, ordinance, regulation, common law, or agreement to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation to any **employee**, including but not limited to any obligation:

NAMED INSURED: XXXXXX

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1. under the Fair Labor Standards Act (except the Equal Pay Act), as may be amended, or any similar provisions of any state, local, or foreign law or any rules or regulations promulgated under such laws;
2. to pay for overtime, reporting time, time for meal or rest breaks, donning and doffing time, reporting time, travel time, or reimbursement of expenses;
3. to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation within a certain period of time;
4. to provide complete, correct, or itemized statements of wages, salary, employee benefits, employee expense reimbursement or other compensation, including any obligation to maintain necessary and accurate records of employment necessary for such statements; and
5. regarding the proper classification of **employees** as exempt or non-exempt or prohibiting improper or inaccurate deductions.

**Wage and hour violation** does not include any:

- a. obligation to pay tort-based back pay;
- b. obligation to pay front pay for non-conversion related torts;
- c. obligation arising under the Employee Retirement Income Security Act of 1974 (ERISA), as may be amended or any rules or regulations promulgated under ERISA; or
- d. **claim for retaliation.**

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)



NAMED INSURED: XXXXXX

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**E2872.3 Wage and Hour Defense Sublimit with Separate Retention Endorsement (Insured Retained Defense - Class Action Limitation)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

Wage and hour defense sublimit      WH-A. **We** will pay up to the Wage and Hour Defense Sublimit stated below, in the aggregate, for **claim expenses** allocated to the portion of any otherwise covered **claim** including a **wage and hour violation**.

This subsection WH-A. applies only to **claim expenses** and **we** will have no obligation to pay any other **loss** in connection with any **wage and hour violation**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection WH-A., and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Wage and Hour Defense Sublimit: \$<LIMIT>

II. If an amount is listed, the **retention** for any **claim** alleging a **wage and hour violation** will be the amount stated below and not the amount stated in the Declarations.

Wage and Hour Retention:      \$<RETENTION> each **claim**

III. Solely with respect to any **claim** that includes any **wage and hour violation**, in Section IV. Defense and settlement of claims, A. Defense and C. Allocation are deleted in their entirety and replaced with the following:

Defense      A. This is a duty to pay policy and not a duty to defend policy, which means **you** have the duty to retain defense counsel and defend **claims** covered by this policy on **your** own behalf. However, **you** must obtain **our** prior written consent to **your** selection of defense counsel, and **you** agree to notify **us** in advance regarding:

1. litigation strategy; and
2. settlement negotiations.

**You** may retain the following defense counsel without **our** prior written consent to defend an otherwise covered **claim**, but only if the **claim** is

NAMED INSURED: XXXXXX

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made or initiated against **you** in a corresponding jurisdiction listed below:

Law Firm	Jurisdiction
<FIRM/LAWYER>	<STATE>
<FIRM/LAWYER>	<STATE>
<FIRM/LAWYER>	<STATE>

Billing rates for the above law firm(s) will not exceed the following:

Partners	\$<RATE>/hour
Associates	\$<RATE>/hour
Paralegals	\$<RATE>/hour

The above listed rates will apply for the life of any **claim** as long as the **claim** is in any way covered under this policy. The rates will be applied to: (i) all covered **claim expenses**; and (ii) all **claim expenses** applied against any applicable **retention**. **You** will bear, at **your** own expense, that portion of any fees charged by the above law firm(s) that exceeds the applicable rates set forth in this Endorsement.

**You** agree to require the above law firm(s) to follow **our** litigation guidelines, copies of which will be provided to **you** upon request and/or to the above law firm(s) once a **claim** that such firm has been retained to handle is submitted to **us**.

**We** have the right to associate effectively in the defense of any **claim** that appears reasonably likely to implicate this policy, including in the negotiation of a settlement. **We** may make any investigation **we** deem appropriate.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of any applicable **retention** prior to the final disposition of a **claim**. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests.

Allocation

- C. The following allocation provisions will apply to all **claims**:
1. **We** will allocate all **claim expenses** on a pro rata basis between allegations of **wage and hour violations** and all other allegations based on **our** and **your** relative exposures. If a **claim** includes both allegations of **wage and hour violations** and other allegations, **we** will pay covered **claim expenses** as follows:
    - a. if the other allegations do not include a covered **employment practices wrongful act**, then **we** will only pay **claim expenses** attributable to the defense of the alleged **wage and hour violations**, and those payments will erode the Wage and Hour Defense Sublimit; and
    - b. if those other allegations include at least one covered **employment practices wrongful act**, then **we** will pay all **claim expenses** incurred in the defense of covered persons or entities against the **claim**, regardless of whether all of

NAMED INSURED: XXXXXX

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those other allegations include covered **employment practices wrongful acts**, and those payments will not erode the Wage and Hour Defense Sublimit.

However, with respect to any **claim** asserted as a class action or that seeks class certification, all **claim expenses** attributable to the defense of alleged **wage and hour violations** will erode the Wage and Hour Defense Sublimit. If the **claim** involves other allegations that include at least one covered **employment practices wrongful act**, **we** will pay all **claim expenses** incurred in the defense of covered persons or entities against those other allegations, and those payments will not erode the Wage and Hour Defense Sublimit.

All **claim expenses we** pay will be a part of, and not in addition to, the **coverage part limit**.

2. **We** will allocate all **loss** other than **claim expenses** on a pro rata basis between covered **loss** and non-covered loss (including any judgment or settlement of any alleged **wage and hour violation**) based on **our** and **your** relative exposures.
3. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

- IV. Solely with respect to any **claim** that includes any alleged **wage and hour violation**, in Section VI. Exclusions – What is not covered, Exclusions applicable to claims, the following is added to the end of the “Compensation violations”, “Statutory violations”, and “Wage and payroll” exclusions:

However, **we** will pay **claim expenses** incurred in the investigation, defense, or appeal of any **claim** including a **wage and hour violation**, but only to the extent such **claim expenses** are covered under Section II. Coverage enhancements, WH-A. Wage and hour defense sublimit.

- V. The following definitions are added to the end of Section VII. Definitions:

**Wage and hour violation** means any actual or alleged violation of, or failure to comply with, any obligation under any statute, ordinance, regulation, common law, or agreement to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation to any **employee**, including but not limited to any obligation:

1. under the Fair Labor Standards Act (except the Equal Pay Act), as may be amended, or any similar provisions of any state, local, or

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foreign law or any rules or regulations promulgated under such laws;

2. to pay for overtime, reporting time, time for meal or rest breaks, donning and doffing time, reporting time, travel time, or reimbursement of expenses;
3. to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation within a certain period of time;
4. to provide complete, correct, or itemized statements of wages, salary, employee benefits, employee expense reimbursement, or other compensation, including any obligation to maintain necessary and accurate records of employment necessary for such statements; and
5. regarding the proper classification of **employees** as exempt or non-exempt or prohibiting improper or inaccurate deductions.

**Wage and hour violation** does not include any:

- a. obligation to pay tort-based back pay;
- b. obligation to pay front pay for non-conversion related torts;
- c. obligation arising under the Employee Retirement Income Security Act of 1974 (ERISA), as may be amended or any rules or regulations promulgated under ERISA; or
- d. **claim for retaliation.**

Endorsement Effective: XX/XX/XXXX

Policy No.: XXXXX

Endorsement No: X

By:  
(Appointed Representative)

NAMED INSURED: XXXXXX

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**E2899.2 Wage and Hour Defense Sublimit with Separate Retention Endorsement (Insured Retained Defense)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☒ **EPL Coverage Part**
- ☐ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

I. The following is added to the end of Section II. Coverage enhancements:

Wage and hour defense sublimit      WH-A. **We** will pay up to the Wage and Hour Defense Sublimit stated below, in the aggregate, for **claim expenses** allocated to the portion of any otherwise covered **claim** including a **wage and hour violation**.

This subsection WH-A. applies only to **claim expenses** and **we** will have no obligation to pay any other **loss** in connection with any **wage and hour violation**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection WH-A., and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Wage and Hour Defense Sublimit: \$<LIMIT>

II. If an amount is listed, the **retention** for any **claim** alleging a **wage and hour violation** will be the amount stated below and not the amount stated in the Declarations.

Wage and Hour Retention:      \$<RETENTION> each **claim**

III. Solely with respect to any **claim** that includes any **wage and hour violation**, in Section IV. Defense and settlement of claims, A. Defense and C. Allocation are deleted in their entirety and replaced with the following:

Defense      A. This is a duty to pay policy and not a duty to defend policy, which means **you** have the duty to retain defense counsel and defend **claims** covered by this policy on **your** own behalf. However, **you** must obtain **our** prior written consent to **your** selection of defense counsel, and **you** agree to notify **us** in advance regarding:

1. litigation strategy; and
2. settlement negotiations.

**You** may retain the following defense counsel without **our** prior written consent to defend an otherwise covered **claim**, but only if the **claim** is

NAMED INSURED: XXXXXX

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made or initiated against **you** in a corresponding jurisdiction listed below:

Law Firm	Jurisdiction
<FIRM/LAWYER>	<STATE>
<FIRM/LAWYER>	<STATE>
<FIRM/LAWYER>	<STATE>

Billing rates for the above law firm(s) will not exceed the following:

Partners	\$<RATE>/hour
Associates	\$<RATE>/hour
Paralegals	\$<RATE>/hour

The above listed rates will apply for the life of any **claim** as long as the **claim** is in any way covered under this policy. The rates will be applied to: (i) all covered **claim expenses**; and (ii) all **claim expenses** applied against any applicable **retention**. **You** will bear, at **your** own expense, that portion of any fees charged by the above law firm(s) that exceeds the applicable rates set forth in this Endorsement.

**You** agree to require the above law firm(s) to follow **our** litigation guidelines, copies of which will be provided to **you** upon request and/or to the above law firm(s) once a **claim** that such firm has been retained to handle is submitted to **us**.

**We** have the right to associate effectively in the defense of any **claim** that appears reasonably likely to implicate this policy, including in the negotiation of a settlement. **We** may make any investigation **we** deem appropriate.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of any applicable **retention** prior to the final disposition of a **claim**. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests.

Allocation

- C. The following allocation provisions will apply to all **claims**:
1. **We** will allocate all **claim expenses** on a pro rata basis between allegations of **wage and hour violations** and all other allegations based on **our** and **your** relative exposures. If a **claim** includes both allegations of **wage and hour violations** and other allegations, **we** will pay covered **claim expenses** as follows:
    - a. if the other allegations do not include a covered **employment practices wrongful act**, then **we** will only pay **claim expenses** attributable to the defense of the alleged **wage and hour violations**, and those payments will erode the Wage and Hour Defense Sublimit; and
    - b. if those other allegations include at least one covered **employment practices wrongful act**, then **we** will pay all **claim expenses** incurred in the defense of covered persons or entities against the **claim**, regardless of whether all of

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those other allegations include covered **employment practices wrongful acts**, and those payments will not erode the Wage and Hour Defense Sublimit.

All **claim expenses we** pay will be a part of, and not in addition to, the **coverage part limit**.

2. **We** will allocate all **loss** other than **claim expenses** on a pro rata basis between covered **loss** and non-covered loss (including any judgment or settlement of any alleged **wage and hour violation**) based on **our** and **your** relative exposures.
3. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

- IV. Solely with respect to any **claim** that includes any alleged **wage and hour violation**, in Section VI. Exclusions – What is not covered, Exclusions applicable to claims, the following is added to the end of the “Compensation violations”, “Statutory violations”, and “Wage and payroll” exclusions:

However, **we** will pay **claim expenses** incurred in the investigation, defense, or appeal of any **claim** including a **wage and hour violation**, but only to the extent such **claim expenses** are covered under Section II. Coverage enhancements, WH-A. Wage and hour defense sublimit.

- V. The following definitions are added to the end of Section VII. Definitions:

**Wage and hour violation** means any actual or alleged violation of, or failure to comply with, any obligation under any statute, ordinance, regulation, common law, or agreement to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation to any **employee**, including but not limited to any obligation:

1. under the Fair Labor Standards Act (except the Equal Pay Act), as may be amended, or any similar provisions of any state, local, or foreign law or any rules or regulations promulgated under such laws;
2. to pay for overtime, reporting time, time for meal or rest breaks, donning and doffing time, reporting time, travel time, or reimbursement of expenses;
3. to pay wages, salary, employee benefits, employee expense reimbursement, or other compensation within a certain period of time;
4. to provide complete, correct, or itemized statements of wages, salary, employee benefits, employee expense reimbursement or other



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compensation, including any obligation to maintain necessary and accurate records of employment necessary for such statements; and

5. regarding the proper classification of **employees** as exempt or non-exempt or prohibiting improper or inaccurate deductions.

**Wage and hour violation** does not include any:

- a. obligation to pay tort-based back pay;
- b. obligation to pay front pay for non-conversion related torts;
- c. obligation arising under the Employee Retirement Income Security Act of 1974 (ERISA), as may be amended or any rules or regulations promulgated under ERISA; or
- d. **claim for retaliation.**

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)



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**E2930.1 Listed Plan Endorsement (Separate Retention)**

- ☐ **Declarations**
- ☐ **General Terms and Conditions**
- ☐ **D&O Coverage Part**
- ☐ **Public Officials Liability Coverage Part**
- ☐ **Educators Legal Liability Coverage Part**
- ☐ **EPL Coverage Part**
- ☒ **Fiduciary Coverage Part**
- ☐ **Employed Lawyers Coverage Part**

In consideration of the premium charged, and on the understanding this endorsement leaves all other terms, conditions, and exclusions unchanged, it is agreed the Coverage Part(s) selected above is amended as follows:

**SCHEDULE**

**PLAN**

**CONTINUITY DATE**

<PLAN 1>	<CONTINUITY DATE 1>
<PLAN 2>	<CONTINUITY DATE 2>
<PLAN 3>	<CONTINUITY DATE 3>

- I. In Section III. Who is an insured, the definition of "**Plan**" is deleted in its entirety and replaced with the following:

**Plan**

means any:

1. plan, fund, trust, or program (including any Employee Benefit Plan, Pension Benefit Plan, Welfare Plan, and IRA-Based Plan, as each is defined in **ERISA**), established anywhere in the world before or as of the inception of the **policy period**, which was, is, or will be sponsored solely by an **insured organization**, or sponsored jointly by an **insured organization** and a labor organization, solely for the benefit of the employees, directors, and/or officers of such **insured organization**;
2. other employee benefit plan or program not subject to **ERISA** which is sponsored solely by an **insured organization** for the benefit of the employees, directors, and/or officers of such **insured organization**, including any fringe benefit or excess benefit plan;
3. other plan or program not described in parts 1 or 2 above while it is being actively developed, formed, or proposed by an **insured organization** prior to the formal creation of such plan or program;
4. **new plan**;
5. other plan, fund, or program not described in parts 1, 2, or 3 above which is specifically listed as a **plan** by endorsement to this policy; or
6. plan listed in the Schedule above, subject to such **plan's**



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respective **continuity date(s)**,

but only for **fiduciary wrongful acts** occurring while under the sponsorship of an **insured organization**.

**Plan** also includes unemployment insurance, Social Security, and disability benefits, but only with respect to a **fiduciary wrongful act** in connection with the **administration** of such government-mandated programs.

**Plan** does not include any employee stock ownership plan or multiemployer plan, except for any employee stock ownership plan or multiemployer plan listed in the Schedule above.

II. In Section V. Your obligations, the following sentence is added to the end of C. Retention:

Solely with respect to **claims** against any of the **plan(s)** listed in the Schedule above for any actual or alleged **fiduciary wrongful act**, the **retention** will be \$<RETENTION>, and not the amount listed in the Declarations.

Endorsement Effective: XX/XX/XXXX  
Endorsement No: X

Policy No.: XXXXX

By:  
(Appointed Representative)

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

#### Named insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded; or
2. nonprofit entity,

of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**, but only for **wrongful acts** occurring during the course of such **management control**.

#### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

#### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, trustee emeritus, department head, or committee member (of a duly constituted committee);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

#### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

#### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide us with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

Notifying us of claims and coverage enhancements	<p>A. <b>You</b> must give written notice to <b>us</b> of any <b>claim</b> or <b>coverage enhancement</b> as soon as possible once such <b>claim</b> or <b>coverage enhancement</b> is first known to the <b>insured organization's</b> Executive Director, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the <b>policy period</b>.</p> <p>All such notifications must be in writing, include a copy of the <b>claim</b> or <b>coverage enhancement</b>, and must be submitted to <b>us</b> via the designated email address or mailing address stated in Item 6 of the Declarations.</p>
Notifying us of potential claims	<p>B. <b>You</b> have the option of notifying <b>us</b> of a <b>potential claim</b> that may lead to a covered <b>claim</b> against <b>you</b>, provided <b>you</b> first become aware of such <b>potential claim</b> during the <b>policy period</b>.</p> <p>In order to do so, <b>you</b> must give written notice to <b>us</b> as soon as possible and within the <b>policy period</b>, and the notice must identify the details of the <b>potential claim</b>, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the <b>potential claim</b> <b>we</b> may reasonably request.</p> <p>The benefit to <b>you</b> of notifying <b>us</b> of a <b>potential claim</b> is that if an actual <b>claim</b> arises from the same circumstances as the properly notified <b>potential claim</b> and results in a covered <b>claim</b>, then <b>we</b> will treat that <b>claim</b> as though it had been notified on the date <b>you</b> properly notified <b>us</b> of the <b>potential claim</b>, even if the <b>claim</b> is first made against <b>you</b> after the <b>policy period</b> has expired.</p> <p>All <b>potential claim</b> notifications must be in writing and submitted to <b>us</b> via the designated email address or mailing address stated in Item 6 of the Declarations.</p>
Retention	<p>C. <b>Our</b> obligation to pay the <b>loss</b> of an <b>insured organization</b>, <b>indemnifiable loss</b>, or <b>coverage enhancements</b> is in excess of the applicable <b>retention</b>, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment. <b>You</b> will remain responsible for the <b>retention</b>, which <b>you</b> agree not to insure. A single <b>retention</b> will apply to <b>loss</b> resulting from all <b>related claims</b> alleging the same <b>wrongful act</b> or <b>related wrongful acts</b>.</p> <p>No <b>retention</b> will apply to any <b>reputation loss</b> or <b>non-indemnifiable loss</b> under Insuring agreement A. Individual insurance.</p> <p>If an <b>insured organization</b> is unable to pay the <b>retention</b> due to its bankruptcy or <b>insolvency</b>, <b>we</b> will advance such payment and make commercially reasonable best efforts to issue payment of covered <b>loss</b> within the applicable <b>retention</b> within 60 days after <b>we</b> receive all documentation necessary to enable <b>us</b> to make such payment. However, <b>we</b> will have the right to recover the amount of such advanced <b>loss</b> from the <b>insured organization</b> or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from <b>our</b> subrogation rights under this Coverage Part or any other rights <b>we</b> may have under applicable law.</p>

### VI. Exclusions – What is not covered

Exclusions applicable to the entire Coverage Part	<p><b>We</b> will have no obligation to pay any sums under this Coverage Part for any <b>claim</b> or <b>coverage enhancement</b> (other than <b>reputation loss</b>):</p>
Bodily injury/property damage	<p>1. for any:</p> <ol style="list-style-type: none"> <li>bodily injury, sickness, disease, or death of any person; or</li> <li>damage to, loss of use, or destruction of any tangible property.</li> </ol> <p>However, this exclusion will not apply to an otherwise covered <b>claim</b> against <b>you</b> for emotional distress or mental anguish resulting from a <b>wrongful act</b>, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness,</p>

## Nonprofit D&O Coverage Part

Employment-related liability	<p>disease, or death of any person.</p> <p>2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. employment practices wrongful act, including but not limited to any: <ul style="list-style-type: none"> <li>i. breach of an implied contract;</li> <li>ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;</li> <li>iii. employment-related misrepresentation(s);</li> <li>iv. harassment, sexual harassment, or hostile work environment;</li> <li>v. <b>retaliation</b>;</li> <li>vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;</li> <li>vii. wrongful deprivation of a career opportunity with an <b>insured organization</b>, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;</li> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> <li>ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;</li> </ul> </li> <li>b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;</li> <li>c. liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or</li> <li>d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.</li> </ul>
Fraudulent/criminal acts	<p>3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.</p>
Influential payments	<p>4. based upon or arising out of any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;</li> <li>b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an <b>insured organization</b>; any member of their family; or any entity with which they are affiliated; or</li> <li>c. domestic or foreign political contribution.</li> </ul>
Insured organization vs. insured	<p>5. brought by or on behalf of an <b>insured organization</b> against an <b>insured person</b>; however, this exclusion will not apply to any <b>claim</b> brought derivatively on behalf of an <b>insured</b></p>



## Nonprofit D&O Coverage Part

**organization** by a(n) member, attorney general, or other representative party if such **claim** is

instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization**.

- |                          |  |
|--------------------------|--|
| Outside entity executive | 6. brought by or on behalf of an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .   |
| Pollution/environmental  | 7. for any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to <b>non-indemnifiable loss</b> , other than <b>clean-up costs</b> .  |
| Prior notice/knowledge   | 8. based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p> |
| Statutory violations     | 9. for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.</p>  |
| Third party violations   | 10. based upon or arising out of any actual or alleged <b>third party violation</b> .  |
| Unjust enrichment        | 11. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.   |

### Exclusions applicable only to Insuring agreement C. Insured organization insurance

- |                       |  |
|-----------------------|--|
| Breach of contract    | 12. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement. |
| Patents/trade secrets | 13. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.   |

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:



### Exclusions applicable only to reputation loss

Prior notice	14. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	15. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	16. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	17. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 3, 4, or 11, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced;
7. a written request to toll or waive a statute of limitations; or
8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and

2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Excess benefit

means an "excess benefit" as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

### Indemnifiable loss

means **loss** for which an **insured organization** has indemnified or is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;
2. an **executive**, other than the General Counsel or Risk Manager (or equivalent position), of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
4. an **outside entity executive**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**; including those resulting from a **claim** for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;
5. **excess benefit** penalties assessed in the amount of 10% by the Internal Revenue Service

("IRS") against any **insured** for an **executive's** involvement in the award of an **excess benefit** and any **claim expenses** resulting from such assessment; however, such **loss** does not include:

- i. any 25% penalty assessed by the IRS against an **insured** deemed to have received an **excess benefit**;
  - ii. **claim expenses** to defend an **insured person** if such person is deemed to have received an **excess benefit**; or
  - iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through d above.

### Non-indemnifiable loss

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Outside entity

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Reputation loss

means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** and either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

### Reputation risk event

means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person**

for whom an **insured organization** maintains key person life insurance;

2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**;
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**; or
7. Contribution revocation: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Nonprofit D&O Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, parts 1 through 3 above include any:

- a. false arrest, detention, or imprisonment;
- b. malicious prosecution;
- c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
- d. slander, libel, or defamation, or disparagement of goods, products, or services;
- e. oral or written publication of material that violates a person's right of privacy;
- f. plagiarism; or
- g. infringement of copyright or trademark or unauthorized use of title.

Part e above does not include any violation of any privacy law or consumer protection law protecting against the unauthorized acquisition, access, use, or disclosure of personally identifiable information that is in **your** care, custody, or control.

**You, your, or insured**

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, or affiliate**, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
- 1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  - 2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  - 3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;

however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:

- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
- b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### I. Insuring agreements

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |   |
|------------------------------------|---|
| Individual insurance               | A. On behalf of an <b>insured person</b> , we will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , we will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , we will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |  |
|----------------------------|--|
| Additional executive limit | <p>A. We will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment we make under this subsection A, and any amounts we pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, our obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before we will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. We will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with our prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> you first receive notice of during the <b>policy period</b>.</p> <p>You must pay the <b>retention</b> before we will be obligated to make any payment under this subsection B, and any amounts we pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Reputation loss sublimit   | <p>C. We will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p>We will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment we make under this subsection C, and any amounts we pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Antitrust coverage         | <p>D. We will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p>You must pay the <b>retention</b> before we will be obligated to make any payment under this</p>   |



## Private D&O Coverage Part

subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Derivative demand sublimit	<p>E. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Pre-claim inquiry sublimit	<p>F. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection F for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Roadshow coverage	<p>G. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made in connection with an <b>insured organization's</b> preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or

2. nonprofit entity sponsored exclusively by an **insured organization**, but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), or member of the Board of Managers or advisory board (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.



**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

However, it will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

Exclusions applicable to  
the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Bodily injury/property damage

1. for any:
  - a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or
  - b. damage to, loss of use, or destruction of any tangible property,
 except that **we** will pay **claim expenses** incurred in the defense of a **claim** brought against an **insured organization** for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007 as may be amended, or any rules or regulations promulgated under such law.

This exclusion will not apply to any **securities claim**.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

- a. employment practices wrongful act, including but not limited to any:
    - i. breach of an implied contract;
    - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
    - iii. employment-related misrepresentation(s);
    - iv. harassment, sexual harassment, or hostile work environment;
    - v. **retaliation**;
    - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
    - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
    - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
    - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Illegal payment to an insured      4. based upon or arising out of any remuneration paid to an **insured** without the prior consent of an **insured organization's** security holders if any final, non-appealable adjudication establishes such payment was illegal.
- Influential payments      5. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured vs. insured      6. brought by or on behalf of (i) any **insured** against another **insured**, or (ii) a security holder of

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an **insured organization**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **insured person** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **insured organization**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **insured organization** in any bankruptcy proceeding by or against it;
- d. brought by an **employee** in their capacity as such;
- e. brought by a former **executive** of an **insured organization** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **insured organization** for at least two years before the **claim** was first made;
- f. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **executive** of an **insured organization** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- g. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **executive** of an **insured organization** that was created and operates in the same country where the **claim** was made.

For purposes of this exclusion, **employee** does not include an **executive** acting in any capacity.

Outside entity executive

7. brought by or on behalf of (i) an **outside entity** or one of its **executives** for any **wrongful act** arising out of an **insured person** serving in the capacity of an **outside entity executive**, or (ii) a security holder of an **outside entity**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **outside entity executive** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **outside entity**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of such **outside entity** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **outside entity** in any bankruptcy proceeding by or against it;
- d. brought by a former **outside entity executive** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **outside entity** for at least two years before the **claim** was first made;
- e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **outside entity executive** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **outside entity executive** of an **outside entity** that was created and operates in the same country where the **claim** was made.

Pollution/environmental

8. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release,

or escape of **pollutants**, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize **pollutants**; however, this exclusion will not apply to:

- a. **non-indemnifiable loss**, other than **clean-up costs**; or
- b. **loss** in connection with a **securities claim**, other than **clean-up costs**.

Prior notice/knowledge

9. based upon or arising out of any actual or alleged **wrongful act** that:
  - a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;
  - b. was the subject of, or is related to, any prior or pending litigation, **claim**, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against **you** and of which **you** had notice prior to the **continuity date**; or
  - c. with respect to an **outside entity executive**, any **insured** had knowledge of prior to the **continuity date**, and there was a reasonable basis to believe that the **wrongful act** could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Public offering of securities

10. based upon or arising out of any public offering of securities by an **insured organization**, **outside entity**, or **affiliate**, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:
  - a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the **named insured** provides **us** with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or
  - b. any **claim** made by any security holder of an **insured organization** for its failure to undertake or complete the initial public offering or sale of its securities.

Purchase of publicly traded entity securities

11. based upon or arising out of any purchase by an **insured organization** of securities of a **publicly traded entity** in a transaction which resulted, or would result, in such entity becoming a **subsidiary** of the **insured organization**.

Statutory violations

12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

13. based upon or arising out of any actual or alleged **third party violation**; however, this exclusion will not apply to any **securities claim**.

Unjust enrichment

14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

**Exclusions applicable only to Insuring agreement C.**
**Insured organization insurance**

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:

- |   |   |
|---|---|
| Breach of contract                      | 15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.  |
| Fines and penalties/non-monetary relief | 16. seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however, this exclusion will not apply to any <b>securities claim</b> .  |
| Intellectual property                   | 17. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret. |
| Invasion of privacy/assault and battery | 18. for any injury resulting from any invasion of privacy, abuse of process, malicious prosecution, libel, slander, defamation, trespass, nuisance, wrongful entry or eviction, false arrest or imprisonment, assault, battery, or loss of consortium.  |
| Professional services                   | 19. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .   |

**Exclusions applicable only to reputation loss**

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

- |                              |  |
|------------------------------|--|
| Prior notice                 | 20. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.  |
| Prior and pending litigation | 21. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> . |
| Pollution/environmental      | 22. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .   |
| Nuclear materials            | 23. based upon or arising out of the hazardous properties of nuclear materials.  |

For purposes of determining the applicability of exclusions 3, 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

**Claim**

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;



2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by:
  - a. the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or
  - b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation;
7. a written request to toll or waive a statute of limitations;
8. a **securities claim**;
9. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
10. a **derivative demand**, with respect to Coverage enhancement E. Derivative demand sublimit.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Derivative demand

means a written demand by one or more security holders of an **insured organization**, made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any **executive**, requesting that it file, on behalf of the **insured organization**, a civil proceeding against any **executive** of the **insured organization** for a **wrongful act** of such **executive**, and which seeks relief from damages arising out of such **wrongful acts**.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	means: <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b> of an <b>insured organization</b>;</li> <li>3. the General Counsel of Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Investigation costs</b>	means the reasonable and necessary fees, costs, and expenses incurred with <b>our</b> consent by an <b>insured organization</b> , or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> , including attorney's fees and expert's fees. <b>Investigation costs</b> does not include any settlement, judgment, or damages, or the compensation or fees of any <b>insured person</b> .
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol> <p><b>Loss</b> does not include:</p> <ol style="list-style-type: none"> <li>a. amounts for which <b>you</b> are not liable or for which the claimants are without legal recourse against <b>you</b>;</li> <li>b. civil or criminal fines or penalties;</li> <li>c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);</li> <li>d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or</li> <li>e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any <b>insured</b>.</li> </ol> <p>However, <b>we</b> will pay <b>claim expenses</b> to defend an otherwise covered <b>claim</b> seeking amounts excluded from <b>loss</b> in parts a through d above.</p>
<b>Non-indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has neither indemnified nor is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).



<b>Outside entity</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ol>
<b>Pollutants</b>	<p>means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.</p>
<b>Potential claim</b>	<p>means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.</p>
<b>Professional services</b>	<p>means services <b>you</b> normally provide to others for a fee in the course of <b>your</b> regular business operations.</p>
<b>Publicly traded entity</b>	<p>means any entity which has any of its securities trading on a stock exchange or an over the counter market.</p>
<b>Reputation loss</b>	<p>means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for:</p> <ol style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ol>
<b>Reputation risk event</b>	<p>means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b>, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:</p> <ol style="list-style-type: none"> <li>1. <u>Management risk event</u>: the death, incapacity, or criminal indictment of any <b>insured person</b> for whom an <b>insured organization</b> maintains key person life insurance;</li> <li>2. <u>Bankruptcy/debt default/downsizing</u>: (a) an <b>insured organization</b> intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an <b>insured organization</b> has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an <b>insured organization</b>;</li> <li>3. <u>Regulatory action</u>: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an <b>insured organization</b>;</li> <li>4. <u>Bodily injury/abuse</u>: an accusation that an <b>insured person</b> (or a person an <b>insured</b> is legally responsible for), while in the course of performance of their duties for or on behalf of an <b>insured organization</b>, has intentionally caused bodily injury to or the death of any person;</li> <li>5. <u>Workplace violence</u>: an <b>employee</b> of an <b>insured organization</b> was the victim of a violent crime while on the premises of such <b>insured organization</b>; or</li> <li>6. <u>Child abduction</u>: a child was abducted or kidnapped while under the care or supervision of an <b>insured organization</b>.</li> </ol>
<b>Retaliation</b>	<p>means retaliatory treatment alleged to be in response to:</p> <ol style="list-style-type: none"> <li>1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an <b>insured</b> that is alleged to be a violation of any federal, state, local, or foreign law;</li> <li>2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;</li> <li>3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or</li> </ol>

foreign “whistleblower” law;

4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Private D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities, or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive**, or **affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made against you in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will

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govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### Derivative demand payment

- C. An **insured organization** will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered **investigation costs** 90 days after:
1. the **insured organization** has made its final decision not to bring a civil proceeding against any of its **executives**; and
  2. such decision has been communicated to the security holder(s) who made the **derivative demand**.
- However, any payment **we** make will be subject to an agreement by the **insured organization**, in a form acceptable to **us**, that the **insured organization** will return such payment to **us** in the event any **insured organization** or any of its security holders brings a **claim** based upon or arising out of any **wrongful acts** that were the subject of the **derivative demand**.

### Public securities transactions

- D. If, during the policy period stated in Item 2 of the Declarations, the **named insured** intends to sell or offer to sell securities issued at any time by the **named insured** in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the **named insured** will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give **us** written notice of the proposed sale or offering and all information **we** request relating to it. There will be no coverage for such transaction unless **we** expressly decide to provide coverage for it.
- If, during the policy period stated in Item 2 of the Declarations, an **insured organization** purchases securities of a **publicly traded entity** in a transaction which would result in such entity becoming a **subsidiary**, the **named insured** will, no later than 30 days prior to such entity becoming a **subsidiary**, give **us** written notice of the proposed purchase and all information **we** request relating to it. There will be no coverage for such **publicly traded entity** unless **we** expressly decide to provide coverage for it.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Nonprofit Healthcare D&O Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

EMTALA fines and penalties  
sublimit

E. **We** will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against **you** in connection with a **claim** for any actual or alleged violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1396dd *et seq.*, as may be amended, including any similar provisions of any federal, state, or local statutory or common law and any rules or regulations promulgated under such laws, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection E, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Government funding defense  
sublimit

F. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **claim expenses** (but not any other **loss**) for any **claim** against **you** seeking the return of funds **you** received from any federal, state, or local governmental agency, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection F, and for all **claim expenses** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection F will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

**Named insured**

means the entity identified in Item 1 of the Declarations.

**Subsidiary**

means any:

1. for-profit entity whose securities are not publicly traded; or
2. nonprofit entity,

of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**, but only for **wrongful acts** occurring during the course of such **management control**.

**Employee**

means any past, present, or future:

1. employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. member of any duly constituted committee of an **insured organization**;
3. person engaged by a duly constituted committee of an **insured organization** to provide an expert opinion regarding peer review or credentialing of an individual physician; or
4. medical director, staff physician, or faculty member,

but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

## Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, trustee emeritus, department head, or committee member (of a duly constituted committee);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

## Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

## Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

## Affiliate

means any entity listed as such by endorsement to this policy.

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## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.



### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.

2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated

email address or mailing address stated in Item 6 of the Declarations.

### Retention

- C. Our obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss** or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

#### Bodily injury/property damage

1. based upon or arising out of any actual or alleged:

- a. bodily injury, sickness, disease, or death of any person; or
- b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to an otherwise covered **claim** against **you** for emotional distress or mental anguish resulting from a **wrongful act**, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person.

#### Captive insurance company

2. based upon or arising out of an **insured organization's management control**, maintenance, management, or direction of a captive insurance company.

#### Employment-related liability

3. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

- a. employment practices wrongful act, including but not limited to any:
  - i. breach of an implied contract;
  - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - iii. employment-related misrepresentation(s);
  - iv. harassment, sexual harassment, or hostile work environment;
  - v. **retaliation**;
  - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
  - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;



## Nonprofit Healthcare D&O Coverage Part

	<ul style="list-style-type: none"> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> <li>ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;</li> </ul>
	<ul style="list-style-type: none"> <li>b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;</li> <li>c. liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or</li> <li>d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.</li> </ul>
Fraudulent/criminal acts	4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Influential payments	5. based upon or arising out of any actual or alleged: <ul style="list-style-type: none"> <li>a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;</li> <li>b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an <b>insured organization</b>; any member of their family; or any entity with which they are affiliated; or</li> <li>c. domestic or foreign political contribution.</li> </ul>
Insured organization vs. insured	6. brought by or on behalf of an <b>insured organization</b> against an <b>insured person</b> ; however, this exclusion will not apply to any <b>claim</b> brought derivatively on behalf of an <b>insured organization</b> by a(n) member, attorney general, or other representative party if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> .
Medical malpractice	7. based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.
Outside entity executive	8. brought by or on behalf of an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .
Pollution/environmental	9. for any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to <b>non-indemnifiable loss</b> , other than <b>clean-up costs</b> .
Prior notice/knowledge	10. based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice</li> </ul>

prior to the **continuity date**; or

- c. with respect to an **outside entity executive**, any **insured** had knowledge of prior to the **continuity date**, and there was a reasonable basis to believe that the **wrongful act** could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Sexual misconduct/child abuse

- 11. based upon or arising out of any:
  - a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
  - b. actual, alleged, or threatened child abuse or neglect; or
  - c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

Statutory violations

- 12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

- 13. based upon or arising out of any actual or alleged **third party violation**.

Unjust enrichment

- 14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

### Exclusions applicable only to Insuring agreement C. Insured organization insurance

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:

Breach of contract

- 15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others **you** assume under any express written contract or agreement; however, this exclusion will not apply to liability **you** would have in the absence of the express written contract or agreement.

Patents/trade secrets

- 16. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.

Professional services

- 17. based upon or arising out of any actual or alleged negligent act, error, or omission in **your** performance of or failure to perform any **professional services** for others.

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

Prior notice

- 18. based upon or arising out of the same or related facts or **reputation risk event** that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.

Prior and pending litigation

- 19. based upon or arising out of a **reputation risk event** that was the subject of, or is related to, any prior or pending litigation, **claim**, written demand, arbitration, criminal proceeding, or

- Pollution/environmental 20. administrative or regulatory proceeding or investigation that was filed or commenced against **you** and of which **you** had notice prior to the **continuity date**.  
based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of **pollutants**, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize **pollutants**.
- Nuclear materials 21. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced;
7. a written request to toll or waive a statute of limitations; or
8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this

## Coverage Part.

<b>Excess benefit</b>	means an “excess benefit” as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.
<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization’s</b> charter, by-laws, operating agreement, or similar document(s).
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	means: <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b>, other than the General Counsel or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. <b>outside entity executive</b>.</li> </ol>
<b>Loss</b>	means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent: <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants’ attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>; including those resulting from a <b>claim</b> for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;</li> <li>5. <b>excess benefit</b> penalties assessed in the amount of 10% by the Internal Revenue Service (“IRS”) against any <b>insured</b> for an <b>executive’s</b> involvement in the award of an <b>excess benefit</b> and any <b>claim expenses</b> resulting from such assessment; however, such <b>loss</b> does not include: <ol style="list-style-type: none"> <li>i. any 25% penalty assessed by the IRS against an <b>insured</b> deemed to have received an <b>excess benefit</b>;</li> <li>ii. <b>claim expenses</b> to defend an <b>insured person</b> if such person is deemed to have received an <b>excess benefit</b>; or</li> </ol> </li> </ol>

- iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
- 6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties if they are part of a covered **claim** under Coverage enhancement E. EMTALA fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement F. Government funding defense sublimit.

**Non-indemnifiable loss** means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

**Outside entity** means any:

- 1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
- 2. other entity listed as an **outside entity** by endorsement to this policy.

**Pollutants** means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

**Potential claim** means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

**Professional services** means services **you** normally provide to others for a fee in the course of **your** regular business operations.

**Reputation loss** means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

- 1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
- 2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

**Reputation risk event** means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**;
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**; or
7. Contribution revocation: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Nonprofit Healthcare D&O Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, parts 1 through 3 above include any:



- a. false arrest, detention, or imprisonment;
- b. malicious prosecution;
- c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
- d. slander, libel, or defamation, or disparagement of goods, products, or services;
- e. oral or written publication of material that violates a person's right of privacy;
- f. plagiarism; or
- g. infringement of copyright or trademark or unauthorized use of title.

Part e above does not include any violation of any privacy law or consumer protection law protecting against the unauthorized acquisition, access, use, or disclosure of personally identifiable information that is in **your** care, custody, or control.

You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, or affiliate**, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;

however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:

- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
- b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |



**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

EMTALA fines and penalties  
sublimit

E. **We** will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against **you** in connection with a **claim** for any actual or alleged violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1396dd *et seq.*, as may be amended, including any similar provisions of any federal, state, or local statutory or common law and any rules or regulations promulgated under such laws, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection E, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Government funding defense  
sublimit

F. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **claim expenses** (but not any other **loss**) for any **claim** against **you** seeking the return of funds **you** received from any federal, state, or local governmental agency, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection F, and for all **claim expenses** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection F will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

**Named insured**

means the entity identified in Item 1 of the Declarations.

**Subsidiary**

means any:

1. for-profit entity whose securities are not publicly traded; or
2. nonprofit entity,

of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**, but only for **wrongful acts** occurring during the course of such **management control**.

**Employee**

means any past, present, or future:

1. employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. member of any duly constituted committee of an **insured organization**;
3. person engaged by a duly constituted committee of an **insured organization** to provide an expert opinion regarding peer review or credentialing of an individual physician; or
4. medical director, staff physician, or faculty member,

but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

## Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, trustee emeritus, department head, or committee member (of a duly constituted committee);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

## Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

## Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

## Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

## Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

## Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.

2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of **a potential claim** that may lead to a covered **claim** against **you**, **provided you first become aware of such potential claim during the policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated

### Retention

email address or mailing address stated in Item 6 of the Declarations.

- C. Our obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss** or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

#### Bodily injury/property damage

1. based upon or arising out of any actual or alleged:

- a. bodily injury, sickness, disease, or death of any person; or
- b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to an otherwise covered **claim** against **you** for emotional distress or mental anguish resulting from a **wrongful act**, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person.

#### Captive insurance company

2. based upon or arising out of an **insured organization's management control**, maintenance, management, or direction of a captive insurance company.

#### Employment-related liability

3. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

- a. employment practices wrongful act, including but not limited to any:
  - i. breach of an implied contract;
  - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - iii. employment-related misrepresentation(s);
  - iv. harassment, sexual harassment, or hostile work environment;
  - v. **retaliation**;
  - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
  - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;

		<ul style="list-style-type: none"> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> <li>ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;</li> </ul>
		<ul style="list-style-type: none"> <li>b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;</li> <li>c. liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or</li> <li>d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.</li> </ul>
Fraudulent/criminal acts	4.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Influential payments	5.	based upon or arising out of any actual or alleged: <ul style="list-style-type: none"> <li>a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;</li> <li>b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an <b>insured organization</b>; any member of their family; or any entity with which they are affiliated; or</li> <li>c. domestic or foreign political contribution.</li> </ul>
Insured organization vs. insured	6.	brought by or on behalf of an <b>insured organization</b> against an <b>insured person</b> ; however, this exclusion will not apply to any <b>claim</b> brought derivatively on behalf of an <b>insured organization</b> by a(n) member, attorney general, or other representative party if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> .
Medical malpractice	7.	based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.
Outside entity executive	8.	brought by or on behalf of an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .
Pollution/environmental	9.	for any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to <b>non-indemnifiable loss</b> , other than <b>clean-up costs</b> .
Prior notice/knowledge	10.	based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice</li> </ul>

prior to the **continuity date**; or

- c. with respect to an **outside entity executive**, any **insured** had knowledge of prior to the **continuity date**, and there was a reasonable basis to believe that the **wrongful act** could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Sexual misconduct/child abuse

- 11. based upon or arising out of any:
  - a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;
  - b. actual, alleged, or threatened child abuse or neglect; or
  - c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.

Statutory violations

- 12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

- 13. based upon or arising out of any actual or alleged **third party violation**.

Unjust enrichment

- 14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

### Exclusions applicable only to Insuring agreement C. Insured organization insurance

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:

Breach of contract

- 15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others **you** assume under any express written contract or agreement; however, this exclusion will not apply to liability **you** would have in the absence of the express written contract or agreement.

Patents/trade secrets

- 16. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.

Professional services

- 17. based upon or arising out of any actual or alleged negligent act, error, or omission in **your** performance of or failure to perform any **professional services** for others.

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

Prior notice

- 18. based upon or arising out of the same or related facts or **reputation risk event** that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.

Prior and pending litigation

- 19. based upon or arising out of a **reputation risk event** that was the subject of, or is related to, any prior or pending litigation, **claim**, written demand, arbitration, criminal proceeding, or



- |                         |  |
|-------------------------|--|
| Pollution/environmental | 20. administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .<br>based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> . |
| Nuclear materials       | 21. based upon or arising out of the hazardous properties of nuclear materials.  |

For purposes of determining the applicability of exclusions 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced;
7. a written request to toll or waive a statute of limitations; or
8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this

Coverage Part.

<b>Excess benefit</b>	means an “excess benefit” as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.
<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization’s</b> charter, by-laws, operating agreement, or similar document(s).
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	means: <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b>, other than the General Counsel or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. <b>outside entity executive</b>.</li> </ol>
<b>Loss</b>	means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent: <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants’ attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>; including those resulting from a <b>claim</b> for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;</li> <li>5. <b>excess benefit</b> penalties assessed in the amount of 10% by the Internal Revenue Service (“IRS”) against any <b>insured</b> for an <b>executive’s</b> involvement in the award of an <b>excess benefit</b> and any <b>claim expenses</b> resulting from such assessment; however, such <b>loss</b> does not include: <ol style="list-style-type: none"> <li>i. any 25% penalty assessed by the IRS against an <b>insured</b> deemed to have received an <b>excess benefit</b>;</li> <li>ii. <b>claim expenses</b> to defend an <b>insured person</b> if such person is deemed to have received an <b>excess benefit</b>; or</li> </ol> </li> </ol>



- iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
- 6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties if they are part of a covered **claim** under Coverage enhancement E. EMTALA fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement F. Government funding defense sublimit.

<b>Non-indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has neither indemnified nor is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).
<b>Outside entity</b>	means any: <ul style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ul>
<b>Pollutants</b>	means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.
<b>Potential claim</b>	means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.
<b>Professional services</b>	means services <b>you</b> normally provide to others for a fee in the course of <b>your</b> regular business operations.
<b>Reputation loss</b>	means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for: <ul style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ul>
<b>Reputation risk event</b>	means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b> , did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**;
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**; or
7. Contribution revocation: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Nonprofit Healthcare D&O Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, parts 1 through 3 above include any:

- a. false arrest, detention, or imprisonment;
- b. malicious prosecution;
- c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
- d. slander, libel, or defamation, or disparagement of goods, products, or services;
- e. oral or written publication of material that violates a person's right of privacy;
- f. plagiarism; or
- g. infringement of copyright or trademark or unauthorized use of title.

Part e above does not include any violation of any privacy law or consumer protection law protecting against the unauthorized acquisition, access, use, or disclosure of personally identifiable information that is in **your** care, custody, or control.

**You, your, or insured**

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, or affiliate**, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.
- However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### I. Insuring agreement

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

#### Additional executive limit

A. We will pay up to the limit stated in the Declarations, in the aggregate, for **loss** resulting from a **claim** made against an **official** of an **insured organization**.

No **retention** will apply to any payment **we** make under this subsection A, and any amounts **we** pay will be in addition to, and not a part of, the **coverage part limit**.

However, **our** obligation to make any payment under this subsection A is:

1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the **official**, whether or not such other insurance is written specifically as excess over this policy; and
2. in excess of any retention applicable to such other insurance, which **you** must pay before **we** will be obligated to make any payment.

#### Extradition costs

B. We will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with **our** prior consent to oppose, challenge, resist, or defend an **extradition action** **you** first receive notice of during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection B, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Reputation loss sublimit

C. We will pay up to the limit stated in the Declarations, in the aggregate, for **reputation loss** resulting from any **reputation risk event** that first commences during the policy period stated in Item 2 of the Declarations.

We will pay covered **reputation loss** regardless of whether a **claim** is ever made against **you** resulting from the **reputation risk event** and if a **claim** is made, regardless of whether the amount is incurred before or after the **claim** is first made against **you**.

No **retention** will apply to any payment **we** make under this subsection C, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Additional defense limit

D. In addition to any otherwise covered **loss**, **we** will also pay up to the limit stated in the Declarations, in the aggregate, for **claim expenses** resulting from covered **claims** against **you** for any actual or alleged **wrongful act**, provided the **claim** is first made against **you** during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and any amounts **we** pay will be in addition to, and not a part of, the **coverage part limit**.

Any **retention** **you** pay in connection with a payment **we** make under this subsection D will be applied to any additional **loss** **we** pay for the same **claim**.

#### Equitable relief defense sublimit

E. We will pay up to the limit stated the Declarations, in the aggregate, for **claim expenses** (but not any other **loss**) resulting from covered **claims** against **you** for any actual or alleged **wrongful act** and seeking non-monetary, equitable, or injunctive relief, provided the **claim** is first made against **you** during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection E, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **employee**, **official**, **independent contractor**, **outside entity executive**, or **commission or board** as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Employee

means any:

1. past, present, or future employee of the **named insured**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees; or
3. employee of a **commission or board**,  
but only while acting in their capacity as such.

**Employee** does not include any employee of an **outside entity**.

#### Official

means any past, present, or future:

1. lawfully elected or appointed official or committee member (of a duly constituted committee);
2. member of a **commission or board**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured**,  
but only while acting in their capacity as such.

#### Independent contractor

means any person listed by endorsement to this policy and who is contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

#### Outside entity executive

means any:

1. **official** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

#### Commission or board

means any commission, board, or similar body operated by and under the jurisdiction of the **named insured**, but only while acting at the direction and on behalf of the **named insured**.

### IV. Defense and settlement of claims

#### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

#### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 50% of all **claim expenses** incurred after **our** recommendation; and
4. 50% of all other **loss** in excess of the settlement amount recommended by **us**.

#### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

#### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief



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Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply any to **reputation loss**.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Antitrust/deceptive trade practices

1. based upon or arising out of any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies;

Bodily injury/property damage

2. based upon or arising out of any actual or alleged:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

Breach of contract

3. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others **you** assume under any express written contract or agreement; however, this exclusion will not apply to liability **you** would have in the absence of the express written contract or agreement.

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Civil unrest	4.	based upon or arising out of any strikes, picketing, riots, civil commotions, or similar events.
Employment-related liability	5.	<p>based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. employment practices wrongful act, including but not limited to any: <ul style="list-style-type: none"> <li>i. breach of an implied contract;</li> <li>ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;</li> <li>iii. employment-related misrepresentation(s);</li> <li>iv. harassment, sexual harassment, or hostile work environment;</li> <li>v. <b>retaliation</b>;</li> <li>vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;</li> <li>vii. wrongful deprivation of a career opportunity with an <b>insured organization</b>, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;</li> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> <li>ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;</li> </ul> </li> <li>b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;</li> <li>c. liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or</li> <li>d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.</li> </ul>
Fiduciary or trustee obligations	6.	based upon or arising out of <b>your</b> responsibilities as a fiduciary or trustee of any plan, fund, trust, or program established for the benefit of the employees or officials of an <b>insured organization</b> , including but not limited to a violation of any of the responsibilities, obligations, or duties imposed by the Employee Retirement Income Security Act of 1974, as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.
Fraudulent/criminal acts	7.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Insured organization vs. insured	8.	brought by or on behalf of an <b>insured organization</b> against an <b>insured person</b> ; however, this exclusion will not apply to any <b>claim</b> brought derivatively on behalf of an <b>insured organization</b> by a member, attorney general, or other representative party if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> .
Loss of property rights	9.	based upon or arising out of any actual or alleged exercise of eminent domain, inverse



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condemnation, temporary or permanent taking, adverse possession, or dedication by adverse use, including the valuation of any property for purposes of such actions.

- |                                  |   |
|----------------------------------|---|
| Operation of public facilities   | 10. based upon or arising out of any actual or alleged establishment, operation, or maintenance of any school, jail or detention facility, law enforcement agency, fire-fighting authority, or hospital, clinic, nursing home, or other health care operation, unless specifically listed by endorsement to this policy.  |
| Outside entity executive         | 11. brought by or on behalf of an <b>outside entity</b> or one of its <b>officials</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .  |
| Patents/trade secrets            | 12. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.  |
| Personal injury                  | 13. based upon or arising out of any actual or alleged: <ul style="list-style-type: none"> <li>a. slander, libel, or defamation;</li> <li>b. oral or written publication of material that violates a person's right of privacy;</li> <li>c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;</li> <li>d. false arrest, detention, or imprisonment;</li> <li>e. plagiarism; and</li> <li>f. infringement of copyright or trademark or unauthorized use of title.</li> </ul>   |
| Pollution/environmental          | 14. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .  |
| Prior notice/knowledge           | 15. based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p> |
| Statutory violations             | 16. for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.</p>  |
| Tax administration or collection | 17. based upon or arising out of any actual or alleged improper administration or collection of taxes.  |

Third party violations	18. based upon or arising out of any actual or alleged <b>third party violation</b> .
Unjust enrichment	19. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.
<b>Exclusions applicable only to reputation loss</b>	
Prior notice	20. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	21. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> , or any order, decree, or judgment entered against <b>you</b> , and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	22. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	23. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 7 or 19, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary relief, or non-monetary, equitable, or injunctive relief to the extent covered under Coverage enhancement E. Equitable relief defense sublimit, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
4. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
5. a civil, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, or 4 of this definition may be commenced;
6. a written request to toll or waive a statute of limitations; or
7. an **extradition action**, with respect to Coverage enhancement B. Extradition costs.

<b>Claim expenses</b>	<p>means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ol> <p><b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b>.</p>
<b>Cleanup costs</b>	<p>means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>.</p>
<b>Coverage enhancements</b>	<p>means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.</p>
<b>Extradition action</b>	<p>means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b>, and includes any appeal of an order or grant resulting from an <b>extradition action</b>.</p>
<b>Foreign policy</b>	<p>means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b>. If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>; or</li> <li>2. a <b>commission or board</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>official</b>, other than the General Counsel or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol>

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

### Outside entity

means any:

1. nonprofit organization; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Reputation loss

means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

### Reputation risk event

means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**;
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**; or
7. Contribution revocation: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Public Officials Liability Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **official, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, employee, official, independent contractor, outside entity executive, or commission or board** as defined in Section III. Who is an insured.

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## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

**I. Insuring agreement**

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

**II. Coverage enhancements**

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

**Additional executive limit**

A. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **loss** resulting from a **claim** made against an **official** of an **insured organization**.

No **retention** will apply to any payment **we** make under this subsection A, and any amounts **we** pay will be in addition to, and not a part of, the **coverage part limit**.

However, **our** obligation to make any payment under this subsection A is:

1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the **official**, whether or not such other insurance is written specifically as excess over this policy; and
2. in excess of any retention applicable to such other insurance, which **you** must pay before **we** will be obligated to make any payment.

**Extradition costs**

B. **We** will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with **our** prior consent to oppose, challenge, resist, or defend an **extradition action** **you** first receive notice of during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection B, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

**Reputation loss sublimit**

C. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **reputation loss** resulting from any **reputation risk event** that first commences during the policy period stated in Item 2 of the Declarations.

**We** will pay covered **reputation loss** regardless of whether a **claim** is ever made against **you** resulting from the **reputation risk event** and if a **claim** is made, regardless of whether the amount is incurred before or after the **claim** is first made against **you**.

No **retention** will apply to any payment **we** make under this subsection C, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

**Additional defense limit**

D. In addition to any otherwise covered **loss**, **we** will also pay up to the limit stated in the Declarations, in the aggregate, for **claim expenses** resulting from covered **claims** against **you** for any actual or alleged **wrongful act**, provided the **claim** is first made against **you** during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and any amounts **we** pay will be in addition to, and not a part of, the **coverage part limit**.

Any **retention** **you** pay in connection with a payment **we** make under this subsection D will be applied to any additional **loss** **we** pay for the same **claim**.

**Equitable relief defense sublimit**

E. **We** will pay up to the limit stated the Declarations, in the aggregate, for **claim expenses** (but not any other **loss**) resulting from covered **claims** against **you** for any actual or alleged **wrongful act** and seeking non-monetary, equitable, or injunctive relief, provided the **claim** is first made against **you** during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection E, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.



### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **employee**, **official**, **independent contractor**, **outside entity executive**, or **commission or board** as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Employee

means any:

1. past, present, or future employee of the **named insured**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees; or
3. employee of a **commission or board**,  
but only while acting in their capacity as such.

**Employee** does not include any employee of an **outside entity**.

#### Official

means any past, present, or future:

1. lawfully elected or appointed official or committee member (of a duly constituted committee);
2. member of a **commission or board**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured**,  
but only while acting in their capacity as such.

#### Independent contractor

means any person listed by endorsement to this policy and who is contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

#### Outside entity executive

means any:

1. **official** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

#### Commission or board

means any commission, board, or similar body operated by and under the jurisdiction of the **named insured**, but only while acting at the direction and on behalf of the **named insured**.

### IV. Defense and settlement of claims

#### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

#### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 50% of all **claim expenses** incurred after **our** recommendation; and
4. 50% of all other **loss** in excess of the settlement amount recommended by **us**.

#### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:

- a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
- b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.

2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

#### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief



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Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of **a potential claim** that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** we may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply any to **reputation loss**.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Antitrust/deceptive trade practices

1. based upon or arising out of any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies;

Bodily injury/property damage

2. based upon or arising out of any actual or alleged:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

Breach of contract

3. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others **you** assume under any express written contract or agreement; however, this exclusion will not apply to liability **you** would have in the absence of the express written contract or agreement.

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Civil unrest	4.	based upon or arising out of any strikes, picketing, riots, civil commotions, or similar events.
Employment-related liability	5.	<p>based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. employment practices wrongful act, including but not limited to any: <ul style="list-style-type: none"> <li>i. breach of an implied contract;</li> <li>ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;</li> <li>iii. employment-related misrepresentation(s);</li> <li>iv. harassment, sexual harassment, or hostile work environment;</li> <li>v. <b>retaliation</b>;</li> <li>vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;</li> <li>vii. wrongful deprivation of a career opportunity with an <b>insured organization</b>, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;</li> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> <li>ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;</li> </ul> </li> <li>b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;</li> <li>c. liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or</li> <li>d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.</li> </ul>
Fiduciary or trustee obligations	6.	based upon or arising out of <b>your</b> responsibilities as a fiduciary or trustee of any plan, fund, trust, or program established for the benefit of the employees or officials of an <b>insured organization</b> , including but not limited to a violation of any of the responsibilities, obligations, or duties imposed by the Employee Retirement Income Security Act of 1974, as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.
Fraudulent/criminal acts	7.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Insured organization vs. insured	8.	brought by or on behalf of an <b>insured organization</b> against an <b>insured person</b> ; however, this exclusion will not apply to any <b>claim</b> brought derivatively on behalf of an <b>insured organization</b> by a member, attorney general, or other representative party if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> .
Loss of property rights	9.	based upon or arising out of any actual or alleged exercise of eminent domain, inverse

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condemnation, temporary or permanent taking, adverse possession, or dedication by adverse use, including the valuation of any property for purposes of such actions.

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|----------------------------------|---|
| Operation of public facilities   | 10. based upon or arising out of any actual or alleged establishment, operation, or maintenance of any school, jail or detention facility, law enforcement agency, fire-fighting authority, or hospital, clinic, nursing home, or other health care operation, unless specifically listed by endorsement to this policy.  |
| Outside entity executive         | 11. brought by or on behalf of an <b>outside entity</b> or one of its <b>officials</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .  |
| Patents/trade secrets            | 12. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.  |
| Personal injury                  | 13. based upon or arising out of any actual or alleged: <ul style="list-style-type: none"> <li>a. slander, libel, or defamation;</li> <li>b. oral or written publication of material that violates a person's right of privacy;</li> <li>c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;</li> <li>d. false arrest, detention, or imprisonment;</li> <li>e. plagiarism; and</li> <li>f. infringement of copyright or trademark or unauthorized use of title.</li> </ul>   |
| Pollution/environmental          | 14. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .  |
| Prior notice/knowledge           | 15. based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p> |
| Statutory violations             | 16. for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.</p>  |
| Tax administration or collection | 17. based upon or arising out of any actual or alleged improper administration or collection of taxes.  |

Third party violations	18. based upon or arising out of any actual or alleged <b>third party violation</b> .
Unjust enrichment	19. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.
<b>Exclusions applicable only to reputation loss</b>	
Prior notice	<b>We</b> will have no obligation to pay any sums under this Coverage Part for any <b>reputation loss</b> : 20. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	21. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> , or any order, decree, or judgment entered against <b>you</b> , and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	22. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	23. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 7 or 19, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary relief, or non-monetary, equitable, or injunctive relief to the extent covered under Coverage enhancement E. Equitable relief defense sublimit, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
4. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
5. a civil, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, or 4 of this definition may be commenced;
6. a written request to toll or waive a statute of limitations; or
7. an **extradition action**, with respect to Coverage enhancement B. Extradition costs.

<b>Claim expenses</b>	<p>means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ol> <p><b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b>.</p>
<b>Cleanup costs</b>	<p>means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>.</p>
<b>Coverage enhancements</b>	<p>means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.</p>
<b>Extradition action</b>	<p>means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b>, and includes any appeal of an order or grant resulting from an <b>extradition action</b>.</p>
<b>Foreign policy</b>	<p>means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b>. If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>; or</li> <li>2. a <b>commission or board</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>official</b>, other than the General Counsel or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol>

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

### Outside entity

means any:

1. nonprofit organization; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Reputation loss

means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

### Reputation risk event

means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**;
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**; or
7. Contribution revocation: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000.



### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Public Officials Liability Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **official, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, employee, official, independent contractor, outside entity executive, or commission or board** as defined in Section III. Who is an insured.

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## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** or **educators wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |



## Educators Legal Liability Coverage Part

	<p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection D, and for all <b>loss</b> in excess of the <b>retention</b>, <b>you</b> will be responsible for the coinsurance percentage stated in the Declarations, which <b>you</b> agree not to insure.</p> <p>Any amounts <b>we</b> pay under this subsection D will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Clery Act audit or investigation sublimit	<p>E. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>Clery Act review</b>, provided the <b>Clery Act review</b> is first initiated against <b>you</b> during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Government funding defense sublimit	<p>F. <b>We</b> will pay up to the limit stated the Declarations, in the aggregate, for <b>claim expenses</b> (but not any other <b>loss</b>) for any <b>claim</b> against <b>you</b> seeking the return of funds <b>you</b> received from any federal, state, or local governmental agency, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b> or <b>educators wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and for all <b>loss</b> in excess of the <b>retention</b>, <b>you</b> will be responsible for the coinsurance percentage stated in the Declarations, which <b>you</b> agree not to insure.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Statutory fines and penalties sublimit	<p>G. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for the following civil fines or penalties assessed against <b>you</b> in connection with a covered <b>claim</b> brought under any of the following laws, all as may be amended, including any rules or regulations promulgated under such laws:</p> <ol style="list-style-type: none"> <li>1. the Campus Sexual Assault Victims' Bill of Rights Act of 1991;</li> <li>2. the Student Right to Know Act of 1991;</li> <li>3. the Federal Education Rights and Privacy Act of 1974 ("FERPA," or the "Buckley Amendment");</li> <li>4. the Crime Awareness and Campus Security Act of 1990 ("Clery Act");</li> <li>5. the Uniform Student Freedom of Expression Act;</li> <li>6. the Freedom of Information Act (5 U.S.C. § 552) or any similar state law;</li> <li>7. Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");</li> <li>8. the Health Information Technology for Economic and Clinical Health Act ("HITECH Act");</li> <li>9. any state "Open Public Meeting" or "Sunshine" law;</li> <li>10. Title IX of the Education Amendments of 1972; or</li> <li>11. Title VII of the Civil Rights Act of 1964,</li> </ol> <p>provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

<b>Named insured</b>	means the entity identified in Item 1 of the Declarations.
<b>Subsidiary</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>for-profit entity whose securities are not publicly traded; or</li> <li>nonprofit entity,</li> </ol> <p>of which the <b>named insured</b> has <b>management control</b>, either directly or indirectly through one or more other <b>subsidiaries</b>, before or during the <b>policy period</b>, but only for <b>wrongful acts</b> occurring during the course of such <b>management control</b>.</p>
<b>Employee</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>employee of an <b>insured organization</b>, including any part-time, seasonal, or temporary employee, or any intern or volunteer;</li> <li>administrator, faculty member, student teacher, teaching assistant, faculty aide, association member, member manager, representative to an education association of which an <b>insured organization</b> is a member, or alumni council member; or</li> <li>students of the <b>insured organization</b> while serving in a supervised internship program in satisfaction of course requirements or while acting at the direction and on behalf of the <b>insured organization</b>,</li> </ol> <p>but only while acting in their capacity as such.</p> <p><b>Employee</b> also includes any person who is leased to an <b>insured organization</b>, but only if such <b>insured organization</b> provides indemnification to such leased person in the same manner as provided to its own employees.</p> <p><b>Employee</b> does not include any employee of an <b>outside entity</b>.</p>
<b>Executive</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>duly elected or appointed director, officer, trustee, trustee emeritus, department head, or committee member (of a duly constituted committee);</li> <li>person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a <b>foreign jurisdiction</b>; or</li> <li>General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>,</li> </ol> <p>but only while acting in their capacity as such.</p> <p><b>Executive</b> also includes any president, regent, chancellor, provost, treasurer, dean, personnel director, governor, department head, or other comparable senior administrator of an <b>insured organization</b>, but only while acting in their capacity as such.</p>
<b>Independent contractor</b>	means any person contracted by an <b>insured organization</b> , but only while acting in their capacity as such.
<b>Outside entity executive</b>	<p>means any:</p> <ol style="list-style-type: none"> <li><b>executive</b> of an <b>insured organization</b> serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an <b>outside entity</b>, but only if such service is at the specific request or direction of an <b>insured organization</b>; or</li> <li>other person listed as an <b>outside entity executive</b> by endorsement to this policy.</li> </ol> <p>If there is a disagreement between an <b>insured organization</b> and purported <b>outside entity executive</b> as to whether such person was acting at the specific request or direction of the <b>insured organization</b>, the determination made by the <b>named insured</b> will control. <b>You</b> agree to notify <b>us</b> of such determination in writing within 90 days after any <b>claim</b> or <b>coverage enhancement</b> involving an <b>outside entity executive</b> is first reported to <b>us</b>.</p> <p>If <b>you</b> do not provide <b>us</b> with any determination regarding the status of an <b>outside entity executive</b>, <b>we</b> will treat the person as if they were not acting at an <b>insured organization's</b> specific request or direction, and no coverage will be provided to them for that <b>claim</b> or <b>coverage enhancement</b>.</p>

## Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured**

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**organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** we may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to any **reputation loss** or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

Bodily injury/property  
damage

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

1. for any:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to an otherwise covered **claim** against **you** for emotional distress or mental anguish resulting from a **wrongful act**, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

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- a. employment practices wrongful act, including but not limited to any:
    - i. breach of an implied contract;
    - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
    - iii. employment-related misrepresentation(s);
    - iv. harassment, sexual harassment, or hostile work environment;
    - v. **retaliation**;
    - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
    - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
    - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
    - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Influential payments      4. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured organization vs. insured      5. brought by or on behalf of an **insured organization** against an **insured person**; however, this exclusion will not apply to any **claim** brought derivatively on behalf of an **insured organization** by a(n) member, attorney general, or other representative party if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization**.

## Educators Legal Liability Coverage Part

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| Medical malpractice           | 6. based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.  |
| Outside entity executive      | 7. brought by or on behalf of an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> or <b>educators wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .  |
| Pollution/environmental       | 8. for any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to <b>non-indemnifiable loss</b> , other than <b>clean-up costs</b> .  |
| Prior notice/knowledge        | <p>9. based upon or arising out of any actual or alleged <b>wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in part a, b, or c above.</p> |
| Sexual misconduct/child abuse | <p>10. based upon or arising out of any:</p> <ul style="list-style-type: none"> <li>a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;</li> <li>b. actual, alleged, or threatened child abuse or neglect; or</li> <li>c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.</li> </ul>   |
| Statutory violations          | <p>11. for any violation of the following laws:</p> <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.</p>  |
| Third party violations        | 12. based upon or arising out of any actual or alleged <b>third party violation</b> .  |
| Unjust enrichment             | 13. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.   |

**Exclusions applicable only to Insuring agreement C. Insured organization insurance**

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:



- |                       |  |
|-----------------------|--|
| Breach of contract    | 14. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement. |
| Patents/trade secrets | 15. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.   |

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

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| Prior notice                 | 16. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.  |
| Prior and pending litigation | 17. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> . |
| Pollution/environmental      | 18. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .   |
| Nuclear materials            | 19. based upon or arising out of the hazardous properties of nuclear materials.  |

For purposes of determining the applicability of exclusions 3, 4, or 13, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced;
7. a written request to toll or waive a statute of limitations;

8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
9. a **Clery Act review**, with respect to Coverage enhancement E. Clery Act audit or investigation sublimit.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Clery Act review

means the initiation of an audit or investigation of an **insured organization** by or on behalf of the Department of Education in relation to the Crime Awareness and Campus Security Act of 1990 ("Clery Act"), as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Educators wrongful act

means any:

1. error or omission by an **employee** or **independent contractor** in the performance of professional services for or on behalf of the **insured organization**, including but not limited to educational malpractice, failure to educate, negligent instruction, or negligent or improper academic guidance, counseling, or placement;
2. improper student discipline; or
3. failure to grant due process.

### Excess benefit

means an "excess benefit" as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

### Indemnifiable loss

means **loss** for which an **insured organization** has indemnified or is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;



2. an **executive**, other than the General Counsel or Risk Manager (or equivalent position), of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**; including those resulting from a **claim** for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;
5. **excess benefit** penalties assessed in the amount of 10% by the Internal Revenue Service ("IRS") against any **insured** for an **executive's** involvement in the award of an **excess benefit** and any **claim expenses** resulting from such assessment; however, such **loss** does not include:
  - i. any 25% penalty assessed by the IRS against an **insured** deemed to have received an **excess benefit**;
  - ii. **claim expenses** to defend an **insured person** if such person is deemed to have received an **excess benefit**; or
  - iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties covered under Coverage enhancement G. Statutory fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses** **we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement F. Government funding defense sublimit.

### Non-indemnifiable loss

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

<b>Outside entity</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ol>
<b>Pollutants</b>	<p>means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.</p>
<b>Potential claim</b>	<p>means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.</p>
<b>Reputation loss</b>	<p>means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for:</p> <ol style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ol>
<b>Reputation risk event</b>	<p>means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b>, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:</p> <ol style="list-style-type: none"> <li>1. <u>Management risk event</u>: the death, incapacity, or criminal indictment of any <b>insured person</b> for whom an <b>insured organization</b> maintains key person life insurance;</li> <li>2. <u>Bankruptcy/debt default/downsizing</u>: (a) an <b>insured organization</b> intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an <b>insured organization</b> has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an <b>insured organization</b>;</li> <li>3. <u>Regulatory action</u>: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an <b>insured organization</b>;</li> <li>4. <u>Bodily injury/abuse</u>: an accusation that an <b>insured person</b> (or a person an <b>insured</b> is legally responsible for), while in the course of performance of their duties for or on behalf of an <b>insured organization</b>, has intentionally caused bodily injury to or the death of any person;</li> <li>5. <u>Workplace violence</u>: an <b>employee</b> of an <b>insured organization</b> was the victim of a violent crime while on the premises of such <b>insured organization</b>;</li> <li>6. <u>Child abduction</u>: a child was abducted or kidnapped while under the care or supervision of an <b>insured organization</b>;</li> <li>7. <u>Contribution revocation</u>: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000;</li> <li>8. <u>Campus violence</u>: a student of an <b>insured organization</b> was the victim of a violent crime while on the premises or within a five-mile radius of the premises of such <b>insured organization</b>;</li> <li>9. <u>Infectious diseases</u>: an outbreak of a viral or bacterial disease, which has afflicted at least 10 students and/or <b>employees</b> on the premises of an <b>insured organization</b>;</li> <li>10. <u>Data breaches</u>: the unauthorized acquisition, access, use, or disclosure of personally identifiable information held by an <b>insured organization</b>, including but not limited to that resulting from the loss or theft of a device containing such information;</li> <li>11. <u>Embezzlement</u>: an accusation that an <b>insured person</b> has fraudulently converted an <b>insured organization's</b> funds, monies, or securities for his or her own purposes while such property was in the care, custody, or control of the <b>insured person</b>; or</li> </ol>

12. Bullying/hazing: an accusation that an **insured organization** failed to investigate or redress bullying and/or hazing.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Educators Legal Liability Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, parts 1 through 3 above include any:
  - a. false arrest, detention, or imprisonment;
  - b. malicious prosecution;
  - c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
  - d. slander, libel, or defamation, or disparagement of goods, products, or services;
  - e. oral or written publication of material that violates a person's right of privacy;
  - f. plagiarism;
  - g. infringement of copyright or trademark or unauthorized use of title; or
  - h. **educators wrongful act**.

Part e above does not include any violation of any privacy law or consumer protection law protecting against the unauthorized acquisition, access, use, or disclosure of personally identifiable information that is in **your** care, custody, or control.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside**

entity executive, or affiliate, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.
- However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement, C. Insured organization insurance, or Section II. Coverage enhancements.
- If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.
- Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** or **educators wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

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|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> or <b>educators wrongful acts</b> .   |

### II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

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|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Educators Legal Liability Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Clery Act audit or investigation sublimit

- E. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **loss** resulting from a **Clery Act review**, provided the **Clery Act review** is first initiated against **you** during the **policy period**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection E, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Government funding defense sublimit

- F. **We** will pay up to the limit stated the Declarations, in the aggregate, for **claim expenses** (but not any other **loss**) for any **claim** against **you** seeking the return of funds **you** received from any federal, state, or local governmental agency, provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act** or **educators wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection F, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection F, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

Statutory fines and penalties sublimit

- G. **We** will pay up to the limit stated in the Declarations, in the aggregate, for the following civil fines or penalties assessed against **you** in connection with a covered **claim** brought under any of the following laws, all as may be amended, including any rules or regulations promulgated under such laws:

1. the Campus Sexual Assault Victims' Bill of Rights Act of 1991;
2. the Student Right to Know Act of 1991;
3. the Federal Education Rights and Privacy Act of 1974 ("FERPA," or the "Buckley Amendment");
4. the Crime Awareness and Campus Security Act of 1990 ("Clery Act");
5. the Uniform Student Freedom of Expression Act;
6. the Freedom of Information Act (5 U.S.C. § 552) or any similar state law;
7. Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");
8. the Health Information Technology for Economic and Clinical Health Act ("HITECH Act");
9. any state "Open Public Meeting" or "Sunshine" law;
10. Title IX of the Education Amendments of 1972; or
11. Title VII of the Civil Rights Act of 1964,

provided the **claim** is first made against **you** during the **policy period** and it results from a **wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection G, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:



<b>Named insured</b>	means the entity identified in Item 1 of the Declarations.
<b>Subsidiary</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>for-profit entity whose securities are not publicly traded; or</li> <li>nonprofit entity,</li> </ol> <p>of which the <b>named insured</b> has <b>management control</b>, either directly or indirectly through one or more other <b>subsidiaries</b>, before or during the <b>policy period</b>, but only for <b>wrongful acts</b> occurring during the course of such <b>management control</b>.</p>
<b>Employee</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>employee of an <b>insured organization</b>, including any part-time, seasonal, or temporary employee, or any intern or volunteer;</li> <li>administrator, faculty member, student teacher, teaching assistant, faculty aide, association member, member manager, representative to an education association of which an <b>insured organization</b> is a member, or alumni council member; or</li> <li>students of the <b>insured organization</b> while serving in a supervised internship program in satisfaction of course requirements or while acting at the direction and on behalf of the <b>insured organization</b>,</li> </ol> <p>but only while acting in their capacity as such.</p> <p><b>Employee</b> also includes any person who is leased to an <b>insured organization</b>, but only if such <b>insured organization</b> provides indemnification to such leased person in the same manner as provided to its own employees.</p> <p><b>Employee</b> does not include any employee of an <b>outside entity</b>.</p>
<b>Executive</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>duly elected or appointed director, officer, trustee, trustee emeritus, department head, or committee member (of a duly constituted committee);</li> <li>person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a <b>foreign jurisdiction</b>; or</li> <li>General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>,</li> </ol> <p>but only while acting in their capacity as such.</p> <p><b>Executive</b> also includes any president, regent, chancellor, provost, treasurer, dean, personnel director, governor, department head, or other comparable senior administrator of an <b>insured organization</b>, but only while acting in their capacity as such.</p>
<b>Independent contractor</b>	means any person contracted by an <b>insured organization</b> , but only while acting in their capacity as such.
<b>Outside entity executive</b>	<p>means any:</p> <ol style="list-style-type: none"> <li><b>executive</b> of an <b>insured organization</b> serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an <b>outside entity</b>, but only if such service is at the specific request or direction of an <b>insured organization</b>; or</li> <li>other person listed as an <b>outside entity executive</b> by endorsement to this policy.</li> </ol> <p>If there is a disagreement between an <b>insured organization</b> and purported <b>outside entity executive</b> as to whether such person was acting at the specific request or direction of the <b>insured organization</b>, the determination made by the <b>named insured</b> will control. <b>You</b> agree to notify <b>us</b> of such determination in writing within 90 days after any <b>claim</b> or <b>coverage enhancement</b> involving an <b>outside entity executive</b> is first reported to <b>us</b>.</p> <p>If <b>you</b> do not provide <b>us</b> with any determination regarding the status of an <b>outside entity executive</b>, <b>we</b> will treat the person as if they were not acting at an <b>insured organization's</b> specific request or direction, and no coverage will be provided to them for that <b>claim</b> or <b>coverage enhancement</b>.</p>

## Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured**



## Educators Legal Liability Coverage Part

**organization's** Executive Director, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** we may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to any **reputation loss** or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

Bodily injury/property  
damage

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

1. for any:
  - a. bodily injury, sickness, disease, or death of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to an otherwise covered **claim** against **you** for emotional distress or mental anguish resulting from a **wrongful act**, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

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- a. employment practices wrongful act, including but not limited to any:
    - i. breach of an implied contract;
    - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
    - iii. employment-related misrepresentation(s);
    - iv. harassment, sexual harassment, or hostile work environment;
    - v. **retaliation**;
    - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
    - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
    - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
    - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Influential payments      4. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured organization vs. insured      5. brought by or on behalf of an **insured organization** against an **insured person**; however, this exclusion will not apply to any **claim** brought derivatively on behalf of an **insured organization** by a(n) member, attorney general, or other representative party if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization**.

## Educators Legal Liability Coverage Part

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|-------------------------------|---|
| Medical malpractice           | 6. based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.   |
| Outside entity executive      | 7. brought by or on behalf of an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> or <b>educators wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b> .   |
| Pollution/environmental       | 8. for any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to <b>non-indemnifiable loss</b> , other than <b>clean-up costs</b> .   |
| Prior notice/knowledge        | 9. based upon or arising out of any actual or alleged <b>wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in part a, b, or c above.</p> |
| Sexual misconduct/child abuse | 10. based upon or arising out of any: <ul style="list-style-type: none"> <li>a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;</li> <li>b. actual, alleged, or threatened child abuse or neglect; or</li> <li>c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.</li> </ul>   |
| Statutory violations          | 11. for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> <p>all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.</p>  |
| Third party violations        | 12. based upon or arising out of any actual or alleged <b>third party violation</b> .   |
| Unjust enrichment             | 13. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.  |

**Exclusions applicable only to Insuring agreement C. Insured organization insurance**

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:

- |                       |  |
|-----------------------|--|
| Breach of contract    | 14. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement. |
| Patents/trade secrets | 15. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.   |

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

- |                              |  |
|------------------------------|--|
| Prior notice                 | 16. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.  |
| Prior and pending litigation | 17. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> . |
| Pollution/environmental      | 18. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .   |
| Nuclear materials            | 19. based upon or arising out of the hazardous properties of nuclear materials.  |

For purposes of determining the applicability of exclusions 3, 4, or 13, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Executive Director, Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced;
7. a written request to toll or waive a statute of limitations;

8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
9. a **Clery Act review**, with respect to Coverage enhancement E. Clery Act audit or investigation sublimit.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Clery Act review

means the initiation of an audit or investigation of an **insured organization** by or on behalf of the Department of Education in relation to the Crime Awareness and Campus Security Act of 1990 ("Clery Act"), as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Educators wrongful act

means any:

1. error or omission by an **employee** or **independent contractor** in the performance of professional services for or on behalf of the **insured organization**, including but not limited to educational malpractice, failure to educate, negligent instruction, or negligent or improper academic guidance, counseling, or placement;
2. improper student discipline; or
3. failure to grant due process.

### Excess benefit

means an "excess benefit" as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

### Indemnifiable loss

means **loss** for which an **insured organization** has indemnified or is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;

2. an **executive**, other than the General Counsel or Risk Manager (or equivalent position), of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**; including those resulting from a **claim** for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;
5. **excess benefit** penalties assessed in the amount of 10% by the Internal Revenue Service ("IRS") against any **insured** for an **executive's** involvement in the award of an **excess benefit** and any **claim expenses** resulting from such assessment; however, such **loss** does not include:
  - i. any 25% penalty assessed by the IRS against an **insured** deemed to have received an **excess benefit**;
  - ii. **claim expenses** to defend an **insured person** if such person is deemed to have received an **excess benefit**; or
  - iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties covered under Coverage enhancement G. Statutory fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses** **we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement F. Government funding defense sublimit.

### Non-indemnifiable loss

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).



<b>Outside entity</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ol>
<b>Pollutants</b>	<p>means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.</p>
<b>Potential claim</b>	<p>means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.</p>
<b>Reputation loss</b>	<p>means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for:</p> <ol style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ol>
<b>Reputation risk event</b>	<p>means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b>, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:</p> <ol style="list-style-type: none"> <li>1. <u>Management risk event</u>: the death, incapacity, or criminal indictment of any <b>insured person</b> for whom an <b>insured organization</b> maintains key person life insurance;</li> <li>2. <u>Bankruptcy/debt default/downsizing</u>: (a) an <b>insured organization</b> intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an <b>insured organization</b> has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an <b>insured organization</b>;</li> <li>3. <u>Regulatory action</u>: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an <b>insured organization</b>;</li> <li>4. <u>Bodily injury/abuse</u>: an accusation that an <b>insured person</b> (or a person an <b>insured</b> is legally responsible for), while in the course of performance of their duties for or on behalf of an <b>insured organization</b>, has intentionally caused bodily injury to or the death of any person;</li> <li>5. <u>Workplace violence</u>: an <b>employee</b> of an <b>insured organization</b> was the victim of a violent crime while on the premises of such <b>insured organization</b>;</li> <li>6. <u>Child abduction</u>: a child was abducted or kidnapped while under the care or supervision of an <b>insured organization</b>;</li> <li>7. <u>Contribution revocation</u>: the withdrawal or demand for return of any non-governmental grant, gift, or donation in excess of \$100,000;</li> <li>8. <u>Campus violence</u>: a student of an <b>insured organization</b> was the victim of a violent crime while on the premises or within a five-mile radius of the premises of such <b>insured organization</b>;</li> <li>9. <u>Infectious diseases</u>: an outbreak of a viral or bacterial disease, which has afflicted at least 10 students and/or <b>employees</b> on the premises of an <b>insured organization</b>;</li> <li>10. <u>Data breaches</u>: the unauthorized acquisition, access, use, or disclosure of personally identifiable information held by an <b>insured organization</b>, including but not limited to that resulting from the loss or theft of a device containing such information;</li> <li>11. <u>Embezzlement</u>: an accusation that an <b>insured person</b> has fraudulently converted an <b>insured organization's</b> funds, monies, or securities for his or her own purposes while such property was in the care, custody, or control of the <b>insured person</b>; or</li> </ol>

12. Bullying/hazing: an accusation that an **insured organization** failed to investigate or redress bullying and/or hazing.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Educators Legal Liability Coverage Part section of the Declarations.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, parts 1 through 3 above include any:
  - a. false arrest, detention, or imprisonment;
  - b. malicious prosecution;
  - c. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
  - d. slander, libel, or defamation, or disparagement of goods, products, or services;
  - e. oral or written publication of material that violates a person's right of privacy;
  - f. plagiarism;
  - g. infringement of copyright or trademark or unauthorized use of title; or
  - h. **educators wrongful act**.

Part e above does not include any violation of any privacy law or consumer protection law protecting against the unauthorized acquisition, access, use, or disclosure of personally identifiable information that is in **your** care, custody, or control.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside**



**entity executive**, or **affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.
- However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement, C. Insured organization insurance, or Section II. Coverage enhancements.
- If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.
- Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this</p>   |

## Private D&O Coverage Part

subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Derivative demand sublimit	<p>E. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Pre-claim inquiry sublimit	<p>F. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection F for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Roadshow coverage	<p>G. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made in connection with an <b>insured organization's</b> preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or

2. nonprofit entity sponsored exclusively by an **insured organization**, but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), or member of the Board of Managers or advisory board (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

However, it will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Bodily injury/property damage

1. for any:
  - a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or
  - b. damage to, loss of use, or destruction of any tangible property,
 except that **we** will pay **claim expenses** incurred in the defense of a **claim** brought against an **insured organization** for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007 as may be amended, or any rules or regulations promulgated under such law.

This exclusion will not apply to any **securities claim**.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:



- a. employment practices wrongful act, including but not limited to any:
    - i. breach of an implied contract;
    - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
    - iii. employment-related misrepresentation(s);
    - iv. harassment, sexual harassment, or hostile work environment;
    - v. **retaliation**;
    - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
    - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
    - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
    - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Illegal payment to an insured      4. based upon or arising out of any remuneration paid to an **insured** without the prior consent of an **insured organization's** security holders if any final, non-appealable adjudication establishes such payment was illegal.
- Influential payments      5. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured vs. insured      6. brought by or on behalf of (i) any **insured** against another **insured**, or (ii) a security holder of



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an **insured organization**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **insured person** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **insured organization**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **insured organization** in any bankruptcy proceeding by or against it;
- d. brought by an **employee** in their capacity as such;
- e. brought by a former **executive** of an **insured organization** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **insured organization** for at least two years before the **claim** was first made;
- f. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **executive** of an **insured organization** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- g. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **executive** of an **insured organization** that was created and operates in the same country where the **claim** was made.

For purposes of this exclusion, **employee** does not include an **executive** acting in any capacity.

Outside entity executive

7. brought by or on behalf of (i) an **outside entity** or one of its **executives** for any **wrongful act** arising out of an **insured person** serving in the capacity of an **outside entity executive**, or (ii) a security holder of an **outside entity**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **outside entity executive** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **outside entity**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of such **outside entity** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **outside entity** in any bankruptcy proceeding by or against it;
- d. brought by a former **outside entity executive** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **outside entity** for at least two years before the **claim** was first made;
- e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **outside entity executive** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **outside entity executive** of an **outside entity** that was created and operates in the same country where the **claim** was made.

Pollution/environmental

8. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release,

or escape of **pollutants**, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize **pollutants**; however, this exclusion will not apply to:

- a. **non-indemnifiable loss**, other than **clean-up costs**; or
- b. **loss** in connection with a **securities claim**, other than **clean-up costs**.

Prior notice/knowledge

- 9. based upon or arising out of any actual or alleged **wrongful act** that:
  - a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;
  - b. was the subject of, or is related to, any prior or pending litigation, **claim**, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against **you** and of which **you** had notice prior to the **continuity date**; or
  - c. with respect to an **outside entity executive**, any **insured** had knowledge of prior to the **continuity date**, and there was a reasonable basis to believe that the **wrongful act** could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Public offering of securities

- 10. based upon or arising out of any public offering of securities by an **insured organization**, **outside entity**, or **affiliate**, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:
  - a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the **named insured** provides **us** with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or
  - b. any **claim** made by any security holder of an **insured organization** for its failure to undertake or complete the initial public offering or sale of its securities.

Purchase of publicly traded entity securities

- 11. based upon or arising out of any purchase by an **insured organization** of securities of a **publicly traded entity** in a transaction which resulted, or would result, in such entity becoming a **subsidiary** of the **insured organization**.

Statutory violations

- 12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

- 13. based upon or arising out of any actual or alleged **third party violation**; however, this exclusion will not apply to any **securities claim**.

Unjust enrichment

- 14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

### Exclusions applicable only to Insuring agreement C. Insured organization insurance

	<b>We</b> will have no obligation to pay any sums for any <b>claim</b> under Insuring agreement C. Insured organization insurance:
Breach of contract	15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.
Fines and penalties/non-monetary relief	16. seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however, this exclusion will not apply to any <b>securities claim</b> .
Intellectual property	17. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.
Invasion of privacy/assault and battery	18. for any injury resulting from any invasion of privacy, abuse of process, malicious prosecution, libel, slander, defamation, trespass, nuisance, wrongful entry or eviction, false arrest or imprisonment, assault, battery, or loss of consortium.
Professional services	19. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .

### Exclusions applicable only to reputation loss

	<b>We</b> will have no obligation to pay any sums under this Coverage Part for any <b>reputation loss</b> :
Prior notice	20. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	21. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	22. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	23. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 3, 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;

2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by:
  - a. the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or
  - b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation;
7. a written request to toll or waive a statute of limitations;
8. a **securities claim**;
9. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
10. a **derivative demand**, with respect to Coverage enhancement E. Derivative demand sublimit.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Derivative demand

means a written demand by one or more security holders of an **insured organization**, made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any **executive**, requesting that it file, on behalf of the **insured organization**, a civil proceeding against any **executive** of the **insured organization** for a **wrongful act** of such **executive**, and which seeks relief from damages arising out of such **wrongful acts**.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	means: <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b> of an <b>insured organization</b>;</li> <li>3. the General Counsel of Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Investigation costs</b>	means the reasonable and necessary fees, costs, and expenses incurred with <b>our</b> consent by an <b>insured organization</b> , or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> , including attorney's fees and expert's fees. <b>Investigation costs</b> does not include any settlement, judgment, or damages, or the compensation or fees of any <b>insured person</b> .
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol> <p><b>Loss</b> does not include:</p> <ol style="list-style-type: none"> <li>a. amounts for which <b>you</b> are not liable or for which the claimants are without legal recourse against <b>you</b>;</li> <li>b. civil or criminal fines or penalties;</li> <li>c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);</li> <li>d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or</li> <li>e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any <b>insured</b>.</li> </ol> <p>However, <b>we</b> will pay <b>claim expenses</b> to defend an otherwise covered <b>claim</b> seeking amounts excluded from <b>loss</b> in parts a through d above.</p>
<b>Non-indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has neither indemnified nor is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).

<b>Outside entity</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ol>
<b>Pollutants</b>	<p>means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.</p>
<b>Potential claim</b>	<p>means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.</p>
<b>Professional services</b>	<p>means services <b>you</b> normally provide to others for a fee in the course of <b>your</b> regular business operations.</p>
<b>Publicly traded entity</b>	<p>means any entity which has any of its securities trading on a stock exchange or an over the counter market.</p>
<b>Reputation loss</b>	<p>means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for:</p> <ol style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ol>
<b>Reputation risk event</b>	<p>means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b>, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:</p> <ol style="list-style-type: none"> <li>1. <u>Management risk event</u>: the death, incapacity, or criminal indictment of any <b>insured person</b> for whom an <b>insured organization</b> maintains key person life insurance;</li> <li>2. <u>Bankruptcy/debt default/downsizing</u>: (a) an <b>insured organization</b> intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an <b>insured organization</b> has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an <b>insured organization</b>;</li> <li>3. <u>Regulatory action</u>: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an <b>insured organization</b>;</li> <li>4. <u>Bodily injury/abuse</u>: an accusation that an <b>insured person</b> (or a person an <b>insured</b> is legally responsible for), while in the course of performance of their duties for or on behalf of an <b>insured organization</b>, has intentionally caused bodily injury to or the death of any person;</li> <li>5. <u>Workplace violence</u>: an <b>employee</b> of an <b>insured organization</b> was the victim of a violent crime while on the premises of such <b>insured organization</b>; or</li> <li>6. <u>Child abduction</u>: a child was abducted or kidnapped while under the care or supervision of an <b>insured organization</b>.</li> </ol>
<b>Retaliation</b>	<p>means retaliatory treatment alleged to be in response to:</p> <ol style="list-style-type: none"> <li>1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an <b>insured</b> that is alleged to be a violation of any federal, state, local, or foreign law;</li> <li>2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;</li> <li>3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or</li> </ol>



foreign “whistleblower” law;

4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Private D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities, or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive**, or **affiliate**, as defined in Section III. Who is an insured.

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## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made against you in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will



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govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### Derivative demand payment

- C. An **insured organization** will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered **investigation costs** 90 days after:
1. the **insured organization** has made its final decision not to bring a civil proceeding against any of its **executives**; and
  2. such decision has been communicated to the security holder(s) who made the **derivative demand**.
- However, any payment **we** make will be subject to an agreement by the **insured organization**, in a form acceptable to **us**, that the **insured organization** will return such payment to **us** in the event any **insured organization** or any of its security holders brings a **claim** based upon or arising out of any **wrongful acts** that were the subject of the **derivative demand**.

### Public securities transactions

- D. If, during the policy period stated in Item 2 of the Declarations, the **named insured** intends to sell or offer to sell securities issued at any time by the **named insured** in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the **named insured** will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give **us** written notice of the proposed sale or offering and all information **we** request relating to it. There will be no coverage for such transaction unless **we** expressly decide to provide coverage for it.
- If, during the policy period stated in Item 2 of the Declarations, an **insured organization** purchases securities of a **publicly traded entity** in a transaction which would result in such entity becoming a **subsidiary**, the **named insured** will, no later than 30 days prior to such entity becoming a **subsidiary**, give **us** written notice of the proposed purchase and all information **we** request relating to it. There will be no coverage for such **publicly traded entity** unless **we** expressly decide to provide coverage for it.

### I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

### II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this</p>   |

## Private D&O Coverage Part

subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Derivative demand sublimit	<p>E. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Pre-claim inquiry sublimit	<p>F. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection F for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Roadshow coverage	<p>G. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made in connection with an <b>insured organization's</b> preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or

2. nonprofit entity sponsored exclusively by an **insured organization**, but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), or member of the Board of Managers or advisory board (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

However, it will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

Exclusions applicable to  
the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Bodily injury/property damage

1. for any:
  - a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or
  - b. damage to, loss of use, or destruction of any tangible property,
 except that **we** will pay **claim expenses** incurred in the defense of a **claim** brought against an **insured organization** for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007 as may be amended, or any rules or regulations promulgated under such law.

This exclusion will not apply to any **securities claim**.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:



- a. employment practices wrongful act, including but not limited to any:
    - i. breach of an implied contract;
    - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
    - iii. employment-related misrepresentation(s);
    - iv. harassment, sexual harassment, or hostile work environment;
    - v. **retaliation**;
    - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
    - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
    - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
    - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      3. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Illegal payment to an insured      4. based upon or arising out of any remuneration paid to an **insured** without the prior consent of an **insured organization's** security holders if any final, non-appealable adjudication establishes such payment was illegal.
- Influential payments      5. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured vs. insured      6. brought by or on behalf of (i) any **insured** against another **insured**, or (ii) a security holder of



an **insured organization**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **insured person** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **insured organization**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **insured organization** in any bankruptcy proceeding by or against it;
- d. brought by an **employee** in their capacity as such;
- e. brought by a former **executive** of an **insured organization** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **insured organization** for at least two years before the **claim** was first made;
- f. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **executive** of an **insured organization** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- g. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **executive** of an **insured organization** that was created and operates in the same country where the **claim** was made.

For purposes of this exclusion, **employee** does not include an **executive** acting in any capacity.

Outside entity executive

7. brought by or on behalf of (i) an **outside entity** or one of its **executives** for any **wrongful act** arising out of an **insured person** serving in the capacity of an **outside entity executive**, or (ii) a security holder of an **outside entity**.

However, this exclusion will not apply to any **claim**:

- a. brought by an **outside entity executive** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
- b. brought by a security holder of an **outside entity**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of such **outside entity** or one of its **executives**;
- c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **outside entity** in any bankruptcy proceeding by or against it;
- d. brought by a former **outside entity executive** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **outside entity** for at least two years before the **claim** was first made;
- e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **outside entity executive** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or
- f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **outside entity executive** of an **outside entity** that was created and operates in the same country where the **claim** was made.

Pollution/environmental

8. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release,

or escape of **pollutants**, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize **pollutants**; however, this exclusion will not apply to:

- a. **non-indemnifiable loss**, other than **clean-up costs**; or
- b. **loss** in connection with a **securities claim**, other than **clean-up costs**.

Prior notice/knowledge

9. based upon or arising out of any actual or alleged **wrongful act** that:
  - a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;
  - b. was the subject of, or is related to, any prior or pending litigation, **claim**, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against **you** and of which **you** had notice prior to the **continuity date**; or
  - c. with respect to an **outside entity executive**, any **insured** had knowledge of prior to the **continuity date**, and there was a reasonable basis to believe that the **wrongful act** could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Public offering of securities

10. based upon or arising out of any public offering of securities by an **insured organization**, **outside entity**, or **affiliate**, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:
  - a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the **named insured** provides **us** with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or
  - b. any **claim** made by any security holder of an **insured organization** for its failure to undertake or complete the initial public offering or sale of its securities.

Purchase of publicly traded entity securities

11. based upon or arising out of any purchase by an **insured organization** of securities of a **publicly traded entity** in a transaction which resulted, or would result, in such entity becoming a **subsidiary** of the **insured organization**.

Statutory violations

12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

13. based upon or arising out of any actual or alleged **third party violation**; however, this exclusion will not apply to any **securities claim**.

Unjust enrichment

14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

### Exclusions applicable only to Insuring agreement C.

#### Insured organization insurance

**We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:

- |   |   |
|---|---|
| Breach of contract                      | 15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.  |
| Fines and penalties/non-monetary relief | 16. seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however, this exclusion will not apply to any <b>securities claim</b> .  |
| Intellectual property                   | 17. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret. |
| Invasion of privacy/assault and battery | 18. for any injury resulting from any invasion of privacy, abuse of process, malicious prosecution, libel, slander, defamation, trespass, nuisance, wrongful entry or eviction, false arrest or imprisonment, assault, battery, or loss of consortium.  |
| Professional services                   | 19. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .   |

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

- |                              |  |
|------------------------------|--|
| Prior notice                 | 20. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.  |
| Prior and pending litigation | 21. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> . |
| Pollution/environmental      | 22. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .   |
| Nuclear materials            | 23. based upon or arising out of the hazardous properties of nuclear materials.  |

For purposes of determining the applicability of exclusions 3, 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;

2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by:
  - a. the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or
  - b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation;
7. a written request to toll or waive a statute of limitations;
8. a **securities claim**;
9. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
10. a **derivative demand**, with respect to Coverage enhancement E. Derivative demand sublimit.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Cleanup costs

means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of **pollutants**.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

### Derivative demand

means a written demand by one or more security holders of an **insured organization**, made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any **executive**, requesting that it file, on behalf of the **insured organization**, a civil proceeding against any **executive** of the **insured organization** for a **wrongful act** of such **executive**, and which seeks relief from damages arising out of such **wrongful acts**.

### Extradition action

means any official request from one nation or state to another for the surrender of an **insured person** to face criminal charges for **wrongful acts** committed by such **insured person**, and includes any appeal of an order or grant resulting from an **extradition action**.

### Foreign policy

means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by **us** or one of **our** affiliates, which has been approved for sale in a **foreign jurisdiction**. If more than one such policy exists, **foreign policy** means the standard basic policy form **we** or one of **our** affiliates typically offer for sale in that **foreign jurisdiction** for comparable risks. **Foreign policy** does not include any partnership management, pension trust, or professional liability coverage.

<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	means: <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b> of an <b>insured organization</b>;</li> <li>3. the General Counsel of Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Investigation costs</b>	means the reasonable and necessary fees, costs, and expenses incurred with <b>our</b> consent by an <b>insured organization</b> , or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> , including attorney's fees and expert's fees. <b>Investigation costs</b> does not include any settlement, judgment, or damages, or the compensation or fees of any <b>insured person</b> .
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol> <p><b>Loss</b> does not include:</p> <ol style="list-style-type: none"> <li>a. amounts for which <b>you</b> are not liable or for which the claimants are without legal recourse against <b>you</b>;</li> <li>b. civil or criminal fines or penalties;</li> <li>c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);</li> <li>d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or</li> <li>e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any <b>insured</b>.</li> </ol> <p>However, <b>we</b> will pay <b>claim expenses</b> to defend an otherwise covered <b>claim</b> seeking amounts excluded from <b>loss</b> in parts a through d above.</p>
<b>Non-indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has neither indemnified nor is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).

<b>Outside entity</b>	<p>means any:</p> <ol style="list-style-type: none"> <li>1. nonprofit organization, other than a <b>subsidiary</b> or <b>affiliate</b>; or</li> <li>2. other entity listed as an <b>outside entity</b> by endorsement to this policy.</li> </ol>
<b>Pollutants</b>	<p>means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.</p>
<b>Potential claim</b>	<p>means any acts, errors, or omissions of an <b>insured</b> or other circumstances reasonably likely to lead to a <b>claim</b> covered under this policy.</p>
<b>Professional services</b>	<p>means services <b>you</b> normally provide to others for a fee in the course of <b>your</b> regular business operations.</p>
<b>Publicly traded entity</b>	<p>means any entity which has any of its securities trading on a stock exchange or an over the counter market.</p>
<b>Reputation loss</b>	<p>means the following reasonable and necessary fees, costs, and expenses incurred in connection with a <b>reputation risk event</b> either 90 days prior to and in anticipation of, or 90 days after, a <b>reputation risk event</b> for:</p> <ol style="list-style-type: none"> <li>1. a risk management, public relations, or law firm <b>you</b> retain with <b>our</b> prior written consent to advise <b>you</b> on minimizing potential harm to an <b>insured organization</b>, including maintaining and restoring public confidence in such <b>insured organization</b>; and</li> <li>2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.</li> </ol>
<b>Reputation risk event</b>	<p>means the public announcement of one of the following events which, in the good faith opinion of an <b>insured organization</b>, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an <b>insured organization</b> which can reasonably be expected to lessen public confidence in the competence of the <b>insured organization</b> or its goods, products, and/or services, received or circulated in the <b>insured organization's</b> geographic area:</p> <ol style="list-style-type: none"> <li>1. <u>Management risk event</u>: the death, incapacity, or criminal indictment of any <b>insured person</b> for whom an <b>insured organization</b> maintains key person life insurance;</li> <li>2. <u>Bankruptcy/debt default/downsizing</u>: (a) an <b>insured organization</b> intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an <b>insured organization</b> has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an <b>insured organization</b>;</li> <li>3. <u>Regulatory action</u>: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an <b>insured organization</b>;</li> <li>4. <u>Bodily injury/abuse</u>: an accusation that an <b>insured person</b> (or a person an <b>insured</b> is legally responsible for), while in the course of performance of their duties for or on behalf of an <b>insured organization</b>, has intentionally caused bodily injury to or the death of any person;</li> <li>5. <u>Workplace violence</u>: an <b>employee</b> of an <b>insured organization</b> was the victim of a violent crime while on the premises of such <b>insured organization</b>; or</li> <li>6. <u>Child abduction</u>: a child was abducted or kidnapped while under the care or supervision of an <b>insured organization</b>.</li> </ol>
<b>Retaliation</b>	<p>means retaliatory treatment alleged to be in response to:</p> <ol style="list-style-type: none"> <li>1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an <b>insured</b> that is alleged to be a violation of any federal, state, local, or foreign law;</li> <li>2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;</li> <li>3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or</li> </ol>



foreign “whistleblower” law;

4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Private D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities, or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive**, or **affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made against you in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will



## Private D&O Coverage Part

govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
  - b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### Derivative demand payment

- C. An **insured organization** will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered **investigation costs** 90 days after:
1. the **insured organization** has made its final decision not to bring a civil proceeding against any of its **executives**; and
  2. such decision has been communicated to the security holder(s) who made the **derivative demand**.
- However, any payment **we** make will be subject to an agreement by the **insured organization**, in a form acceptable to **us**, that the **insured organization** will return such payment to **us** in the event any **insured organization** or any of its security holders brings a **claim** based upon or arising out of any **wrongful acts** that were the subject of the **derivative demand**.

### Public securities transactions

- D. If, during the policy period stated in Item 2 of the Declarations, the **named insured** intends to sell or offer to sell securities issued at any time by the **named insured** in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the **named insured** will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give **us** written notice of the proposed sale or offering and all information **we** request relating to it. There will be no coverage for such transaction unless **we** expressly decide to provide coverage for it.
- If, during the policy period stated in Item 2 of the Declarations, an **insured organization** purchases securities of a **publicly traded entity** in a transaction which would result in such entity becoming a **subsidiary**, the **named insured** will, no later than 30 days prior to such entity becoming a **subsidiary**, give **us** written notice of the proposed purchase and all information **we** request relating to it. There will be no coverage for such **publicly traded entity** unless **we** expressly decide to provide coverage for it.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any payments <b>we</b> make will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Portfolio Company D&O Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Derivative demand sublimit	E.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Pre-claim inquiry sublimit	F.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection F for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Roadshow coverage	G.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made in connection with an <b>insured organization's</b> preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, sponsor firm, or affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,  
but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own **employees**.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), member of the Board of Managers, member of an advisory board, including of any medical, scientific, technology, or other similar advisory board, board observer, supervisory board member, shareholders' representative, or natural person general partner (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An **independent contractor** will qualify as an **insured** only if the **insured organization** provides indemnification to such **independent contractor** in the same manner as provided to its own **employees**.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Sponsor firm

means the controlling shareholder(s) of the **named insured**, but only for **claims** or **coverage enhancements**:

1. alleging a **wrongful act** of another **insured**; and
2. brought and maintained against both the **sponsor firm** and such other **insured**.

Coverage will be available for the **sponsor firm** only while both the **sponsor firm** and the other **insured** are defendants in the same action. No coverage is available to the **sponsor firm** for any **wrongful act** occurring while the **sponsor firm** is not the controlling shareholder of the **named insured**, or for any **wrongful act** by the **sponsor firm**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. 1. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.
- We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.
2. However, the **named insured** will have the right to assume the defense of any covered **claim** or **coverage enhancement**, so long as **we** receive written notice of **your** election to assume the defense within 30 days after **you** first report the **claim** or **coverage enhancement** to **us**.
- If **you** assume the defense of a **claim** or **coverage enhancement**, **you** will have the duty to retain defense counsel on **your** own behalf. Notwithstanding, **you** agree to advise **us** in advance regarding:
- the selection of defense counsel, staffing, and billing rates;
  - litigation strategy; and
  - settlement negotiations.
- We** will be entitled to effectively associate in the investigation, evaluation, negotiation, defense, or settlement of any **claim** or **coverage enhancement**.
3. At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.
4. It will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably.
- If **you** have not assumed the defense of a **claim** or **coverage enhancement**, and **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
- the amount of **our** recommended settlement;
  - claim expenses** incurred up to the date of **our** recommendation;
  - 90% of all **claim expenses** incurred after **our** recommendation; and
  - 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. 1. The following allocation provisions will apply to all **claims** and **coverage enhancements** that **we** defend on **your** behalf:
- If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
- 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. However, if **you** have assumed the defense of any **claim** or **coverage enhancement**, **we** will not make any payments for any portion(s) of the **claim** or **coverage enhancement** not covered by this Coverage Part. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will allocate all amounts, including **claim expenses**, on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
3. In all events, **we** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage**



**enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment.

**You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Bodily injury/property damage

1. for any:

- a. bodily injury, sickness, disease, or death of any person; or
- b. damage to, loss of use, or destruction of any tangible property,

except that **we** will pay **claim expenses** incurred in the defense of a **claim** brought against an **insured organization** for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007, as may be amended, or any rules or regulations promulgated under such law.

However, this exclusion will not apply to any **securities claim**.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

a. employment practices wrongful act, including but not limited to any:

- i. breach of an implied contract;
- ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
- iii. employment-related misrepresentation(s);
- iv. harassment, sexual harassment, or hostile work environment;
- v. **retaliation**;
- vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
- vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
- viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
- ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent



## Portfolio Company D&O Coverage Part

		organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;
	b.	obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
	c.	liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or
	d.	improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
Fraudulent/criminal acts	3.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Illegal payment to an insured	4.	based upon or arising out of any remuneration paid to an <b>insured</b> without the prior consent of an <b>insured organization's</b> security holders if any final, non-appealable adjudication establishes such payment was illegal.
Influential payments	5.	based upon or arising out of any actual or alleged: <ol style="list-style-type: none"> <li>payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;</li> <li>payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an <b>insured organization</b>; any member of their family; or any entity with which they are affiliated; or</li> <li>domestic or foreign political contribution.</li> </ol>
Insured vs. insured	6.	brought by or on behalf of (i) any <b>insured</b> against another <b>insured</b> , or (ii) a security holder of an <b>insured organization</b> . However, this exclusion will not apply to any <b>claim</b> : <ol style="list-style-type: none"> <li>brought by an <b>insured person</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>brought by a security holder of an <b>insured organization</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> or one of its <b>executives</b>;</li> <li>brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>insured organization</b> in any bankruptcy proceeding by or against it;</li> <li>brought by an <b>employee</b> in their capacity as such;</li> <li>brought by a former <b>executive</b> of an <b>insured organization</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>insured organization</b> for at least two years before the <b>claim</b> was first made;</li> <li>which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>executive</b> of an <b>insured organization</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> </ol>

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	g.	brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>executive</b> of an <b>insured organization</b> that was created and operates in the same country where the <b>claim</b> was made.
		For purposes of this exclusion, <b>employee</b> does not include an <b>executive</b> acting in any capacity.
Outside entity executive	7.	<p>brought by or on behalf of (i) an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b>, or (ii) a security holder of an <b>outside entity</b>.</p> <p>However, this exclusion will not apply to any <b>claim</b>:</p> <ul style="list-style-type: none"> <li>a. brought by an <b>outside entity executive</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>b. brought by a security holder of an <b>outside entity</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of such <b>outside entity</b> or one of its <b>executives</b>;</li> <li>c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>outside entity</b> in any bankruptcy proceeding by or against it;</li> <li>d. brought by a former <b>outside entity executive</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>outside entity</b> for at least two years before the <b>claim</b> was first made;</li> <li>e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>outside entity executive</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> <li>f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>outside entity executive</b> of an <b>outside entity</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul>
Pollution/environmental	8.	<p>based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; however, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. <b>non-indemnifiable loss</b>, other than <b>clean-up costs</b>; or</li> <li>b. <b>loss</b> in connection with a <b>securities claim</b>, other than <b>clean-up costs</b>.</li> </ul>
Prior notice/knowledge	9.	<p>based upon or arising out of any actual or alleged <b>wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p>
Public offering of securities	10.	<p>based upon or arising out of any public offering of securities by an <b>insured organization</b>, <b>outside entity</b>, or <b>affiliate</b>, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:</p>

- a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the **named insured** provides **us** with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or
- b. any **claim** made by any security holder of an **insured organization** for its failure to undertake or complete the initial public offering or sale of its securities.

However, part b of this exclusion will not apply to a **claim** brought by a **sponsor firm**.

Purchase of publicly traded entity securities	11. based upon or arising out of any purchase by an <b>insured organization</b> of securities of a <b>publicly traded entity</b> in a transaction which resulted, or would result, in such entity becoming a <b>subsidiary</b> of the <b>insured organization</b> .
Statutory violations	12. for any violation of the following laws: <ol style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ol> all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.
Third party violations	13. based upon or arising out of any actual or alleged <b>third party violation</b> ; however, this exclusion will not apply to any <b>securities claim</b> .
Unjust enrichment	14. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.
<b>Exclusions applicable only to Insuring agreement C. Insured organization insurance</b>	
Breach of contract	15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.
Fines and penalties/non-monetary relief	16. seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however, this exclusion will not apply to any <b>securities claim</b> .
Intellectual property	17. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.
Professional services	18. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .

**Exclusions applicable only to reputation loss**

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

Prior notice	19. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	20. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	21. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	22. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 3, 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by:
  - a. the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or
  - b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation;
7. a written request to toll or waive a statute of limitations;
8. a **securities claim**;
9. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
10. a **derivative demand**, with respect to Coverage enhancement E. Derivative demand sublimit.

<b>Claim expenses</b>	<p>means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ol> <p><b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b>.</p>
<b>Cleanup costs</b>	<p>means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>.</p>
<b>Coverage enhancements</b>	<p>means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.</p>
<b>Derivative demand</b>	<p>means a written demand by one or more security holders of an <b>insured organization</b>, made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any <b>executive</b>, requesting that it file, on behalf of the <b>insured organization</b>, a civil proceeding against any <b>executive</b> of the <b>insured organization</b> for a <b>wrongful act</b> of such <b>executive</b>, and which seeks relief from damages arising out of such <b>wrongful acts</b>.</p>
<b>Extradition action</b>	<p>means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b>, and includes any appeal of an order or grant resulting from an <b>extradition action</b>.</p>
<b>Foreign policy</b>	<p>means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b>. If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>;</li> <li>3. a <b>sponsor firm</b>; or</li> <li>4. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b>, other than the General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Investigation costs</b>	<p>means the reasonable and necessary fees, costs, and expenses incurred with <b>our</b> consent by an <b>insured organization</b>, or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b>, including attorney's fees and expert's fees.</p>

**Investigation costs** does not include any settlement, judgment, or damages, or the compensation or fees of any **insured person**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**;
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or
5. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through d above.

### Non-indemnifiable loss

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Outside entity

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Professional services

means services **you** normally provide to others for a fee in the course of **your** regular business operations.

### Publicly traded entity

means any entity which has any of its securities trading on a stock exchange or an over the counter market.

### Reputation loss

means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and



2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

### Reputation risk event

means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**; or
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Portfolio Company D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities; or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for



employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, any:
  - a. assault, battery, or loss of consortium;
  - b. slander, libel, or defamation;
  - c. oral or written publication of material that violates a person's right of privacy;
  - d. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
  - e. false arrest, detention, or imprisonment; and
  - f. abuse of process or malicious prosecution.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, sponsor firm, or affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.
- However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and

## Portfolio Company D&O Coverage Part

- b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

- |                                |   |
|--------------------------------|---|
| Derivative demand payment      | <p>C. An <b>insured organization</b> will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered <b>investigation costs</b> 90 days after:</p> <ol style="list-style-type: none"> <li>1. the <b>insured organization</b> has made its final decision not to bring a civil proceeding against any of its <b>executives</b>; and</li> <li>2. such decision has been communicated to the security holder(s) who made the <b>derivative demand</b>.</li> </ol> <p>However, any payment <b>we</b> make will be subject to an agreement by the <b>insured organization</b>, in a form acceptable to <b>us</b>, that the <b>insured organization</b> will return such payment to <b>us</b> in the event any <b>insured organization</b> or any of its security holders brings a <b>claim</b> based upon or arising out of any <b>wrongful acts</b> that were the subject of the <b>derivative demand</b>.</p>  |
| Public securities transactions | <p>D. If, during the policy period stated in Item 2 of the Declarations, the <b>named insured</b> intends to sell or offer to sell securities issued at any time by the <b>named insured</b> in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the <b>named insured</b> will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give <b>us</b> written notice of the proposed sale or offering and all information <b>we</b> request relating to it. There will be no coverage for such transaction unless <b>we</b> expressly decide to provide coverage for it.</p> <p>If, during the policy period stated in Item 2 of the Declarations, an <b>insured organization</b> purchases securities of a <b>publicly traded entity</b> in a transaction which would result in such entity becoming a <b>subsidiary</b>, the <b>named insured</b> will, no later than 30 days prior to such entity becoming a <b>subsidiary</b>, give <b>us</b> written notice of the proposed purchase and all information <b>we</b> request relating to it. There will be no coverage for such <b>publicly traded entity</b> unless <b>we</b> expressly decide to provide coverage for it.</p> |
| Other insurance                | <p>E. Notwithstanding anything to the contrary in the other insurance provisions in the General Terms and Conditions, the coverage available under this Coverage Part to a <b>sponsor firm</b> will be primary with respect to, and will not contribute with, any other similar management or professional liability insurance available to the <b>sponsor firm</b> for any <b>claim</b> or <b>coverage enhancement</b> which may be covered under both policies.</p>   |

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any payments <b>we</b> make will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Portfolio Company D&O Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

Derivative demand sublimit	E.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Pre-claim inquiry sublimit	F.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection F for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>
Roadshow coverage	G.	<p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made in connection with an <b>insured organization's</b> preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, sponsor firm, or affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,  
but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own **employees**.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee), member of the Board of Managers, member of an advisory board, including of any medical, scientific, technology, or other similar advisory board, board observer, supervisory board member, shareholders' representative, or natural person general partner (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An **independent contractor** will qualify as an **insured** only if the **insured organization** provides indemnification to such **independent contractor** in the same manner as provided to its own **employees**.

However, an **insured organization** may request that no coverage be provided for an **independent contractor** named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to us.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Sponsor firm

means the controlling shareholder(s) of the **named insured**, but only for **claims** or **coverage enhancements**:

1. alleging a **wrongful act** of another **insured**; and
2. brought and maintained against both the **sponsor firm** and such other **insured**.

Coverage will be available for the **sponsor firm** only while both the **sponsor firm** and the other **insured** are defendants in the same action. No coverage is available to the **sponsor firm** for any **wrongful act** occurring while the **sponsor firm** is not the controlling shareholder of the **named insured**, or for any **wrongful act** by the **sponsor firm**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. 1. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.
- We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.
2. However, the **named insured** will have the right to assume the defense of any covered **claim** or **coverage enhancement**, so long as **we** receive written notice of **your** election to assume the defense within 30 days after **you** first report the **claim** or **coverage enhancement** to **us**.
- If **you** assume the defense of a **claim** or **coverage enhancement**, **you** will have the duty to retain defense counsel on **your** own behalf. Notwithstanding, **you** agree to advise **us** in advance regarding:
- the selection of defense counsel, staffing, and billing rates;
  - litigation strategy; and
  - settlement negotiations.
- We** will be entitled to effectively associate in the investigation, evaluation, negotiation, defense, or settlement of any **claim** or **coverage enhancement**.
3. At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.
4. It will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably.
- If **you** have not assumed the defense of a **claim** or **coverage enhancement**, and **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
- the amount of **our** recommended settlement;
  - claim expenses** incurred up to the date of **our** recommendation;
  - 90% of all **claim expenses** incurred after **our** recommendation; and
  - 90% of all other **loss** in excess of the settlement amount recommended by **us**.



## Allocation

- C. 1. The following allocation provisions will apply to all **claims** and **coverage enhancements** that **we** defend on **your** behalf:
- If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
- 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. However, if **you** have assumed the defense of any **claim** or **coverage enhancement**, **we** will not make any payments for any portion(s) of the **claim** or **coverage enhancement** not covered by this Coverage Part. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will allocate all amounts, including **claim expenses**, on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
3. In all events, **we** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.
- In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.
- The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

## Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage**



**enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment.

**You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

Bodily injury/property damage

1. for any:

- a. bodily injury, sickness, disease, or death of any person; or
- b. damage to, loss of use, or destruction of any tangible property,

except that **we** will pay **claim expenses** incurred in the defense of a **claim** brought against an **insured organization** for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007, as may be amended, or any rules or regulations promulgated under such law.

However, this exclusion will not apply to any **securities claim**.

Employment-related liability

2. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:

a. employment practices wrongful act, including but not limited to any:

- i. breach of an implied contract;
- ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
- iii. employment-related misrepresentation(s);
- iv. harassment, sexual harassment, or hostile work environment;
- v. **retaliation**;
- vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;
- vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
- viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
- ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent

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		organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a <b>claim</b> for parts i through viii above;
	b.	obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
	c.	liability or breach of any duty or obligation owed by <b>you</b> as an employer or prospective employer; or
	d.	improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
Fraudulent/criminal acts	3.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Illegal payment to an insured	4.	based upon or arising out of any remuneration paid to an <b>insured</b> without the prior consent of an <b>insured organization's</b> security holders if any final, non-appealable adjudication establishes such payment was illegal.
Influential payments	5.	based upon or arising out of any actual or alleged: <ol style="list-style-type: none"> <li>payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;</li> <li>payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an <b>insured organization</b>; any member of their family; or any entity with which they are affiliated; or</li> <li>domestic or foreign political contribution.</li> </ol>
Insured vs. insured	6.	brought by or on behalf of (i) any <b>insured</b> against another <b>insured</b> , or (ii) a security holder of an <b>insured organization</b> . However, this exclusion will not apply to any <b>claim</b> : <ol style="list-style-type: none"> <li>brought by an <b>insured person</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>brought by a security holder of an <b>insured organization</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of the <b>insured organization</b> or one of its <b>executives</b>;</li> <li>brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>insured organization</b> in any bankruptcy proceeding by or against it;</li> <li>brought by an <b>employee</b> in their capacity as such;</li> <li>brought by a former <b>executive</b> of an <b>insured organization</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>insured organization</b> for at least two years before the <b>claim</b> was first made;</li> <li>which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>executive</b> of an <b>insured organization</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> </ol>

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	g.	brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>executive</b> of an <b>insured organization</b> that was created and operates in the same country where the <b>claim</b> was made.
		For purposes of this exclusion, <b>employee</b> does not include an <b>executive</b> acting in any capacity.
Outside entity executive	7.	<p>brought by or on behalf of (i) an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b>, or (ii) a security holder of an <b>outside entity</b>.</p> <p>However, this exclusion will not apply to any <b>claim</b>:</p> <ul style="list-style-type: none"> <li>a. brought by an <b>outside entity executive</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>b. brought by a security holder of an <b>outside entity</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of such <b>outside entity</b> or one of its <b>executives</b>;</li> <li>c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>outside entity</b> in any bankruptcy proceeding by or against it;</li> <li>d. brought by a former <b>outside entity executive</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>outside entity</b> for at least two years before the <b>claim</b> was first made;</li> <li>e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>outside entity executive</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> <li>f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>outside entity executive</b> of an <b>outside entity</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul>
Pollution/environmental	8.	<p>based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; however, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. <b>non-indemnifiable loss</b>, other than <b>clean-up costs</b>; or</li> <li>b. <b>loss</b> in connection with a <b>securities claim</b>, other than <b>clean-up costs</b>.</li> </ul>
Prior notice/knowledge	9.	<p>based upon or arising out of any actual or alleged <b>wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a, b, or c above.</p>
Public offering of securities	10.	<p>based upon or arising out of any public offering of securities by an <b>insured organization</b>, <b>outside entity</b>, or <b>affiliate</b>, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:</p>

- a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the **named insured** provides **us** with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or
- b. any **claim** made by any security holder of an **insured organization** for its failure to undertake or complete the initial public offering or sale of its securities.

However, part b of this exclusion will not apply to a **claim** brought by a **sponsor firm**.

Purchase of publicly traded entity securities

11. based upon or arising out of any purchase by an **insured organization** of securities of a **publicly traded entity** in a transaction which resulted, or would result, in such entity becoming a **subsidiary** of the **insured organization**.

Statutory violations

12. for any violation of the following laws:
  - a. the Employee Retirement Income Security Act of 1974;
  - b. the Fair Labor Standards Act;
  - c. the National Labor Relations Act or Labor Management Relations Act;
  - d. the Worker Adjustment and Retraining Notification Act;
  - e. the Consolidated Omnibus Budget Reconciliation Act of 1985;
  - f. the Occupational Safety and Health Act; or
  - g. the Patient Protection and Affordable Care Act,
 all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.

Third party violations

13. based upon or arising out of any actual or alleged **third party violation**; however, this exclusion will not apply to any **securities claim**.

Unjust enrichment

14. based upon or arising out of any profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

### Exclusions applicable only to Insuring agreement C. Insured organization insurance

Breach of contract

- We** will have no obligation to pay any sums for any **claim** under Insuring agreement C. Insured organization insurance:
15. based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others **you** assume under any express written contract or agreement; however, this exclusion will not apply to liability **you** would have in the absence of the express written contract or agreement.

Fines and penalties/non-monetary relief

16. seeking fines, penalties, or non-monetary relief against the **insured organization**; however, this exclusion will not apply to any **securities claim**.

Intellectual property

17. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.

Professional services

18. based upon or arising out of any actual or alleged negligent act, error, or omission in **your** performance of or failure to perform any **professional services** for others; however, this exclusion will not apply to any **securities claim**.

### Exclusions applicable only to reputation loss

**We** will have no obligation to pay any sums under this Coverage Part for any **reputation loss**:

Prior notice	19. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	20. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	21. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	22. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 3, 4, 5, or 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a civil, criminal, administrative, or regulatory investigation of an **insured person** by a domestic or foreign governmental or regulatory entity, commenced by:
  - a. the identification of such **insured person** by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or
  - b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation;
7. a written request to toll or waive a statute of limitations;
8. a **securities claim**;
9. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
10. a **derivative demand**, with respect to Coverage enhancement E. Derivative demand sublimit.

<b>Claim expenses</b>	<p>means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ol> <p><b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b>.</p>
<b>Cleanup costs</b>	<p>means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>.</p>
<b>Coverage enhancements</b>	<p>means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.</p>
<b>Derivative demand</b>	<p>means a written demand by one or more security holders of an <b>insured organization</b>, made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any <b>executive</b>, requesting that it file, on behalf of the <b>insured organization</b>, a civil proceeding against any <b>executive</b> of the <b>insured organization</b> for a <b>wrongful act</b> of such <b>executive</b>, and which seeks relief from damages arising out of such <b>wrongful acts</b>.</p>
<b>Extradition action</b>	<p>means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b>, and includes any appeal of an order or grant resulting from an <b>extradition action</b>.</p>
<b>Foreign policy</b>	<p>means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b>. If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>;</li> <li>3. a <b>sponsor firm</b>; or</li> <li>4. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employee</b>;</li> <li>2. an <b>executive</b>, other than the General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position), of an <b>insured organization</b>;</li> <li>3. the General Counsel, Deputy General Counsel, Associate General Counsel, or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>;</li> <li>4. an <b>independent contractor</b>; or</li> <li>5. an <b>outside entity executive</b>.</li> </ol>
<b>Investigation costs</b>	<p>means the reasonable and necessary fees, costs, and expenses incurred with <b>our</b> consent by an <b>insured organization</b>, or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b>, including attorney's fees and expert's fees.</p>



**Investigation costs** does not include any settlement, judgment, or damages, or the compensation or fees of any **insured person**.

**Loss**

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**;
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or
5. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through d above.

**Non-indemnifiable loss**

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

**Outside entity**

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

**Pollutants**

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

**Potential claim**

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

**Professional services**

means services **you** normally provide to others for a fee in the course of **your** regular business operations.

**Publicly traded entity**

means any entity which has any of its securities trading on a stock exchange or an over the counter market.

**Reputation loss**

means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, a **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and



2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

### Reputation risk event

means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an **insured organization**, has intentionally caused bodily injury to or the death of any person;
5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**; or
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Portfolio Company D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities; or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for

employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**;
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such; or
4. with respect to all **insureds**, any:
  - a. assault, battery, or loss of consortium;
  - b. slander, libel, or defamation;
  - c. oral or written publication of material that violates a person's right of privacy;
  - d. wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of premises;
  - e. false arrest, detention, or imprisonment; and
  - f. abuse of process or malicious prosecution.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside entity executive, sponsor firm, or affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.
- However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;
- however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:
- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and

## Portfolio Company D&O Coverage Part

- b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

- |                                |   |
|--------------------------------|---|
| Derivative demand payment      | <p>C. An <b>insured organization</b> will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered <b>investigation costs</b> 90 days after:</p> <ol style="list-style-type: none"> <li>1. the <b>insured organization</b> has made its final decision not to bring a civil proceeding against any of its <b>executives</b>; and</li> <li>2. such decision has been communicated to the security holder(s) who made the <b>derivative demand</b>.</li> </ol> <p>However, any payment <b>we</b> make will be subject to an agreement by the <b>insured organization</b>, in a form acceptable to <b>us</b>, that the <b>insured organization</b> will return such payment to <b>us</b> in the event any <b>insured organization</b> or any of its security holders brings a <b>claim</b> based upon or arising out of any <b>wrongful acts</b> that were the subject of the <b>derivative demand</b>.</p>  |
| Public securities transactions | <p>D. If, during the policy period stated in Item 2 of the Declarations, the <b>named insured</b> intends to sell or offer to sell securities issued at any time by the <b>named insured</b> in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the <b>named insured</b> will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give <b>us</b> written notice of the proposed sale or offering and all information <b>we</b> request relating to it. There will be no coverage for such transaction unless <b>we</b> expressly decide to provide coverage for it.</p> <p>If, during the policy period stated in Item 2 of the Declarations, an <b>insured organization</b> purchases securities of a <b>publicly traded entity</b> in a transaction which would result in such entity becoming a <b>subsidiary</b>, the <b>named insured</b> will, no later than 30 days prior to such entity becoming a <b>subsidiary</b>, give <b>us</b> written notice of the proposed purchase and all information <b>we</b> request relating to it. There will be no coverage for such <b>publicly traded entity</b> unless <b>we</b> expressly decide to provide coverage for it.</p> |
| Other insurance                | <p>E. Notwithstanding anything to the contrary in the other insurance provisions in the General Terms and Conditions, the coverage available under this Coverage Part to a <b>sponsor firm</b> will be primary with respect to, and will not contribute with, any other similar management or professional liability insurance available to the <b>sponsor firm</b> for any <b>claim</b> or <b>coverage enhancement</b> which may be covered under both policies.</p>   |

### I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

### II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Private Healthcare D&O Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

- |                                     |    |   |
|-------------------------------------|----|---|
| Derivative demand sublimit          | E. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| EMTALA fines and penalties sublimit | F. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against <b>you</b> in connection with a <b>claim</b> for any actual or alleged violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1396dd <i>et seq.</i>, as may be amended, including any similar provisions of any federal, state, or local statutory or common law and any rules or regulations promulgated under such laws, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Government funding defense sublimit | G. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>claim expenses</b> (but not any other <b>loss</b>) for any <b>claim</b> against <b>you</b> seeking the return of funds <b>you</b> received from any federal, state, or local governmental agency, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and for all <b>claim expenses</b> in excess of the <b>retention</b>, <b>you</b> will be responsible for the coinsurance percentage stated in the Declarations, which <b>you</b> agree not to insure.</p> <p>Any amounts <b>we</b> pay under this subsection G will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Pre-claim inquiry sublimit          | H. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection H for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> |

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection H, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

### Roadshow coverage

- I. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **loss** resulting from a **claim** made in connection with an **insured organization's** preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection I, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

## III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

### Named insured

means the entity identified in Item 1 of the Declarations.

### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future:

1. employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. member of any duly constituted committee of an **insured organization**;
3. person engaged by a duly constituted committee of an **insured organization** to provide an expert opinion regarding peer review or credentialing of an individual physician; or
4. medical director, staff physician, or faculty member,

but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee) or member of the Board of Managers or advisory board (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.



However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

However, it will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.



### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.
- In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

### VI. Exclusions – What is not covered

#### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

- |                               |  |
|-------------------------------|--|
| Bodily injury/property damage | <p>1. based upon or arising out of any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. bodily injury, sickness, disease, or death of any person; or</li> <li>b. damage to, loss of use, or destruction of any tangible property,</li> </ul> <p>except that <b>we</b> will pay <b>claim expenses</b> incurred in the defense of a <b>claim</b> brought against an <b>insured organization</b> for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007, as may be amended, or any rules or regulations promulgated under such law.</p> <p>However, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>i. an otherwise covered <b>claim</b> against <b>you</b> for emotional distress or mental anguish resulting from a <b>wrongful act</b>, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person; or</li> <li>ii. any <b>securities claim</b>.</li> </ul>   |
| Captive insurance company     | <p>2. based upon or arising out of an <b>insured organization's management control</b>, maintenance, management, or direction of a captive insurance company.</p>  |
| Employment-related liability  | <p>3. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. employment practices wrongful act, including but not limited to any: <ul style="list-style-type: none"> <li>i. breach of an implied contract;</li> <li>ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;</li> <li>iii. employment-related misrepresentation(s);</li> <li>iv. harassment, sexual harassment, or hostile work environment;</li> <li>v. <b>retaliation</b>;</li> <li>vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;</li> <li>vii. wrongful deprivation of a career opportunity with an <b>insured organization</b>, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;</li> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> </ul> </li> </ul> |

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- ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Illegal payment to an insured      5. based upon or arising out of any remuneration paid to an **insured** without the prior consent of an **insured organization's** security holders if any final, non-appealable adjudication establishes such payment was illegal.
- Influential payments      6. based upon or arising out of any actual or alleged:
- a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured vs. insured      7. brought by or on behalf of (i) any **insured** against another **insured**, or (ii) a security holder of an **insured organization**.
- However, this exclusion will not apply to any **claim**:
- a. brought by an **insured person** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
  - b. brought by a security holder of an **insured organization**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization** or one of its **executives**;
  - c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **insured organization** in any bankruptcy proceeding by or against it;
  - d. brought by an **employee** in their capacity as such;
  - e. brought by a former **executive** of an **insured organization** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **insured organization** for at least two years before the **claim** was first made;
  - f. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **executive** of an **insured organization** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation

promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or

- g. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **executive** of an **insured organization** that was created and operates in the same country where the **claim** was made.

For purposes of this exclusion, **employee** does not include an **executive** acting in any capacity.

Medical malpractice	8.	based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.
Outside entity executive	9.	<p>brought by or on behalf of (i) an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b>, or (ii) a security holder of an <b>outside entity</b>.</p> <p>However, this exclusion will not apply to any <b>claim</b>:</p> <ul style="list-style-type: none"> <li>a. brought by an <b>outside entity executive</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>b. brought by a security holder of an <b>outside entity</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of such <b>outside entity</b> or one of its <b>executives</b>;</li> <li>c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>outside entity</b> in any bankruptcy proceeding by or against it;</li> <li>d. brought by a former <b>outside entity executive</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>outside entity</b> for at least two years before the <b>claim</b> was first made;</li> <li>e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>outside entity executive</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> <li>f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>outside entity executive</b> of an <b>outside entity</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul>
Pollution/environmental	10.	<p>based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; however, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. <b>non-indemnifiable loss</b>, other than <b>clean-up costs</b>; or</li> <li>b. <b>loss</b> in connection with a <b>securities claim</b>, other than <b>clean-up costs</b>.</li> </ul>
Prior notice/knowledge	11.	<p>based upon or arising out of any actual or alleged <b>wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b></li> </ul>

could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Public offering of securities	12.	based upon or arising out of any public offering of securities by an <b>insured organization</b> , <b>outside entity</b> , or <b>affiliate</b> , or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to: <ul style="list-style-type: none"> <li>a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the <b>named insured</b> provides <b>us</b> with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or</li> <li>b. any <b>claim</b> made by any security holder of an <b>insured organization</b> for its failure to undertake or complete the initial public offering or sale of its securities.</li> </ul>
Purchase of publicly traded entity securities	13.	based upon or arising out of any purchase by an <b>insured organization</b> of securities of a <b>publicly traded entity</b> in a transaction which resulted, or would result, in such entity becoming a <b>subsidiary</b> of the <b>insured organization</b> .
Sexual misconduct/child abuse	14.	based upon or arising out of any: <ul style="list-style-type: none"> <li>a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;</li> <li>b. actual, alleged, or threatened child abuse or neglect; or</li> <li>c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.</li> </ul>
Statutory violations	15.	for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.
Third party violations	16.	based upon or arising out of any actual or alleged <b>third party violation</b> ; however, this exclusion will not apply to any <b>securities claim</b> .
Unjust enrichment	17.	based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.
<b>Exclusions applicable only to Insuring agreement C. Insured organization insurance</b>		<b>We</b> will have no obligation to pay any sums for any <b>claim</b> under Insuring agreement C. Insured organization insurance:
Breach of contract	18.	based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.
Fines and penalties/non-	19.	seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however,

monetary relief	this exclusion will not apply to any <b>securities claim</b> .
Intellectual property	20. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.
Invasion of privacy/assault and battery	21. for any injury resulting from any invasion of privacy, abuse of process, malicious prosecution, libel, slander, defamation, trespass, nuisance, wrongful entry or eviction, false arrest or imprisonment, assault, battery, or loss of consortium.
Professional services	22. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .
<b>Exclusions applicable only to reputation loss</b>	
Prior notice	23. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	24. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	25. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	26. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 4, 5, 6, or 17, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such



	proceeding;
	5. an arbitration proceeding against an <b>insured</b> , commenced by the service on the <b>insured</b> of a demand for arbitration (or similar document), or an appeal of any such proceeding;
	6. a civil, criminal, administrative, or regulatory investigation of an <b>insured person</b> by a domestic or foreign governmental or regulatory entity, commenced by: <ul style="list-style-type: none"> <li>a. the identification of such <b>insured person</b> by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or</li> <li>b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the <b>insured person</b> of a subpoena or a Wells Notice, target letter, or formal order of investigation;</li> </ul>
	7. a written request to toll or waive a statute of limitations;
	8. a <b>securities claim</b> ;
	9. an <b>extradition action</b> , with respect to Coverage enhancement B. Extradition costs; or
	10. a <b>derivative demand</b> , with respect to Coverage enhancement E. Derivative demand sublimit.
<b>Claim expenses</b>	means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent: <ul style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ul> <b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b> .
<b>Cleanup costs</b>	means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b> .
<b>Coverage enhancements</b>	means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.
<b>Derivative demand</b>	means a written demand by one or more security holders of an <b>insured organization</b> , made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any <b>executive</b> , requesting that it file, on behalf of the <b>insured organization</b> , a civil proceeding against any <b>executive</b> of the <b>insured organization</b> for a <b>wrongful act</b> of such <b>executive</b> , and which seeks relief from damages arising out of such <b>wrongful acts</b> .
<b>Excess benefit</b>	means an "excess benefit" as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.
<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).



### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Investigation costs

means the reasonable and necessary fees, costs, and expenses incurred with **our** consent by an **insured organization**, or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the **insured organization** should bring the civil proceeding demanded in a **derivative demand**, including attorney's fees and expert's fees. **Investigation costs** does not include any settlement, judgment, or damages, or the compensation or fees of any **insured person**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**; including those resulting from a **claim** for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;
5. **excess benefit** penalties assessed in the amount of 10% by the Internal Revenue Service ("IRS") against any **insured** for an **executive's** involvement in the award of an **excess benefit** and any **claim expenses** resulting from such assessment; however, such **loss** does not include:
  - i. any 25% penalty assessed by the IRS against an **insured** deemed to have received an **excess benefit**;
  - ii. **claim expenses** to defend an **insured person** if such person is deemed to have received an **excess benefit**; or
  - iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties if they are part of a covered **claim** under Coverage enhancement F. EMTALA fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;

- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement G. Government funding defense sublimit.

**Non-indemnifiable loss** means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

**Outside entity** means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

**Pollutants** means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

**Potential claim** means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

**Professional services** means services **you** normally provide to others for a fee in the course of **your** regular business operations.

**Publicly traded entity** means any entity which has any of its securities trading on a stock exchange or an over the counter market.

**Reputation loss** means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, the **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

**Reputation risk event** means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an

**insured organization**, has intentionally caused bodily injury to or the death of any person;

5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**; or
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Private Healthcare D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities, or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside**

entity executive, or affiliate, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

#### Worldwide coverage

- A. If a **claim** or **coverage enhancement** is made or initiated against **you** in a **foreign jurisdiction** resulting from a **wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim** or **coverage enhancement**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

#### Order of payments

- B. In the event **loss** resulting from any **claim** or **coverage enhancement** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** covered under Insuring agreement A. Individual insurance;
  2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement; and
  3. then pay **loss** covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;

however, for any **loss** resulting from a **claim** or **coverage enhancement** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:

- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
- b. then either pay or hold payment for **loss** covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

#### Derivative demand payment

- C. An **insured organization** will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered **investigation costs** 90 days after:
1. the **insured organization** has made its final decision not to bring a civil proceeding against any of its **executives**; and
  2. such decision has been communicated to the security holder(s) who made the **derivative demand**.

However, any payment **we** make will be subject to an agreement by the **insured organization**, in a form acceptable to **us**, that the **insured organization** will return such payment to **us** in the event any **insured organization** or any of its security holders brings a **claim** based upon or arising out of any **wrongful acts** that were the subject of the **derivative demand**.

#### Public securities transactions

- D. If, during the policy period stated in Item 2 of the Declarations, the **named insured** intends to sell or offer to sell securities issued at any time by the **named insured** in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the **named insured** will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give **us** written notice of the proposed sale or offering and

## Private Healthcare D&O Coverage Part

all information **we** request relating to it. There will be no coverage for such transaction unless **we** expressly decide to provide coverage for it.

If, during the policy period stated in Item 2 of the Declarations, an **insured organization** purchases securities of a **publicly traded entity** in a transaction which would result in such entity becoming a **subsidiary**, the **named insured** will, no later than 30 days prior to such entity becoming a **subsidiary**, give **us** written notice of the proposed purchase and all information **we** request relating to it. There will be no coverage for such **publicly traded entity** unless **we** expressly decide to provide coverage for it.

## I. Insuring agreements

**We** will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

- |                                    |  |
|------------------------------------|--|
| Individual insurance               | A. On behalf of an <b>insured person</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , and that is not indemnified by an <b>insured organization</b> .   |
| Insured organization reimbursement | B. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against an <b>insured person</b> for such person's actual or alleged <b>wrongful acts</b> , but only to the extent the <b>insured organization</b> has indemnified the <b>insured person</b> . |
| Insured organization insurance     | C. On behalf of an <b>insured organization</b> , <b>we</b> will pay <b>loss</b> resulting from a <b>claim</b> against the <b>insured organization</b> for its actual or alleged <b>wrongful acts</b> .   |

## II. Coverage enhancements

**We** will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

- |                            |   |
|----------------------------|---|
| Additional executive limit | <p>A. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> made against an <b>executive</b> of an <b>insured organization</b>, and which is covered under Insuring agreement A. Individual insurance.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection A, and any amounts <b>we</b> pay will be in addition to, and not a part of, the <b>coverage part limit</b>.</p> <p>However, <b>our</b> obligation to make any payment under this subsection A is:</p> <ol style="list-style-type: none"> <li>1. specifically excess of and will not contribute with any other valid and collectible Side A insurance available to the <b>executive</b>, whether or not such other insurance is written specifically as excess over this policy; and</li> <li>2. in excess of any retention applicable to such other insurance, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment.</li> </ol> |
| Extradition costs          | <p>B. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to oppose, challenge, resist, or defend an <b>extradition action</b> <b>you</b> first receive notice of during the <b>policy period</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection B, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Reputation loss sublimit   | <p>C. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>reputation loss</b> resulting from any <b>reputation risk event</b> that first commences during the policy period stated in Item 2 of the Declarations.</p> <p><b>We</b> will pay covered <b>reputation loss</b> regardless of whether a <b>claim</b> is ever made against <b>you</b> resulting from the <b>reputation risk event</b> and if a <b>claim</b> is made, regardless of whether the amount is incurred before or after the <b>claim</b> is first made against <b>you</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection C, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Antitrust coverage         | <p>D. <b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>loss</b> resulting from a <b>claim</b> against <b>you</b> for any actual or alleged violation of the Sherman Antitrust Act (including any rule or regulation promulgated under such Act), or any similar federal, state, or local statute governing antitrust violations, price fixing, price discrimination, unfair competition, deceptive trade practices, or monopolies, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p>   |

## Private Healthcare D&O Coverage Part

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection D, and for all **loss** in excess of the **retention**, **you** will be responsible for the coinsurance percentage stated in the Declarations, which **you** agree not to insure.

Any amounts **we** pay under this subsection D will be a part of, and not in addition to, the **coverage part limit**.

- |                                     |    |   |
|-------------------------------------|----|---|
| Derivative demand sublimit          | E. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>investigation costs</b> incurred by an <b>insured organization</b>, resulting from an investigation by the <b>insured organization's</b> board of directors or any committee of the board of directors (or equivalent management bodies) to determine whether the <b>insured organization</b> should bring the civil proceeding demanded in a <b>derivative demand</b> which is first made during the <b>policy period</b>.</p> <p>No <b>retention</b> will apply to any payment <b>we</b> make under this subsection E, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| EMTALA fines and penalties sublimit | F. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against <b>you</b> in connection with a <b>claim</b> for any actual or alleged violation of the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1396dd <i>et seq.</i>, as may be amended, including any similar provisions of any federal, state, or local statutory or common law and any rules or regulations promulgated under such laws, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection F, and any amounts <b>we</b> pay will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>  |
| Government funding defense sublimit | G. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for <b>claim expenses</b> (but not any other <b>loss</b>) for any <b>claim</b> against <b>you</b> seeking the return of funds <b>you</b> received from any federal, state, or local governmental agency, provided the <b>claim</b> is first made against <b>you</b> during the <b>policy period</b> and it results from a <b>wrongful act</b>.</p> <p><b>You</b> must pay the <b>retention</b> before <b>we</b> will be obligated to make any payment under this subsection G, and for all <b>claim expenses</b> in excess of the <b>retention</b>, <b>you</b> will be responsible for the coinsurance percentage stated in the Declarations, which <b>you</b> agree not to insure.</p> <p>Any amounts <b>we</b> pay under this subsection G will be a part of, and not in addition to, the <b>coverage part limit</b>.</p>   |
| Pre-claim inquiry sublimit          | H. | <p><b>We</b> will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with <b>our</b> prior consent to prepare for or respond to a verifiable, informal inquiry investigation of an <b>insured person</b>, and which is first commenced during the <b>policy period</b>, requesting the <b>insured person</b> to:</p> <ol style="list-style-type: none"> <li>1. appear at a meeting or interview in connection with the <b>insured person's</b> capacity as such, and which is unrelated to any routine inquiry, examination, audit, or similar supervisory review; or</li> <li>2. produce any documents, records, or other information in connection with the <b>insured person's</b> capacity as such,</li> </ol> <p>which is brought by:</p> <ol style="list-style-type: none"> <li>a. any governmental or regulatory entity; or</li> <li>b. an <b>insured organization</b> or its board of directors (or equivalent management body) and arises out of an inquiry or investigation of the <b>insured person</b> by a governmental or regulatory entity.</li> </ol> <p><b>We</b> will not make any payment under this subsection H for:</p> <ol style="list-style-type: none"> <li>i. the compensation of any <b>insured person</b>; or</li> <li>ii. the costs of complying with any formal or informal discovery or other request asking an <b>insured organization</b> or any third party to produce documents, records, or electronic information.</li> </ol> |



**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection H, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

### Roadshow coverage

- I. **We** will pay up to the limit stated in the Declarations, in the aggregate, for **loss** resulting from a **claim** made in connection with an **insured organization's** preparation for any initial public offering, including any presentations ("roadshow" or otherwise), but only if such initial public offering is not completed.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection I, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

## III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employee**, **executive**, **independent contractor**, **outside entity executive**, or **affiliate**, as defined below:

### Named insured

means the entity identified in Item 1 of the Declarations.

### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **wrongful acts** occurring during the course of such **management control** or sponsorship.

### Employee

means any past, present, or future:

1. employee of an **insured organization**, including any part-time, seasonal, or temporary employee, or any intern or volunteer;
2. member of any duly constituted committee of an **insured organization**;
3. person engaged by a duly constituted committee of an **insured organization** to provide an expert opinion regarding peer review or credentialing of an individual physician; or
4. medical director, staff physician, or faculty member,

but only while acting in their capacity as such.

**Employee** also includes any person who is leased to an **insured organization**, but only if such **insured organization** provides indemnification to such leased person in the same manner as provided to its own employees.

**Employee** does not include any employee of an **outside entity**.

### Executive

means any past, present, or future:

1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee) or member of the Board of Managers or advisory board (or equivalent position);
2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a **foreign jurisdiction**; or
3. General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**,

but only while acting in their capacity as such.

### Independent contractor

means any person contracted by an **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim** or **coverage enhancement**. Such request must be made in writing and within 90 days after the **claim** or **coverage enhancement** is first reported to **us**.

### Outside entity executive

means any:

1. **executive** of an **insured organization** serving in their capacity as a director, officer, trustee, trustee emeritus, or governor of an **outside entity**, but only if such service is at the specific request or direction of an **insured organization**; or
2. other person listed as an **outside entity executive** by endorsement to this policy.

If there is a disagreement between an **insured organization** and purported **outside entity executive** as to whether such person was acting at the specific request or direction of the **insured organization**, the determination made by the **named insured** will control. **You** agree to notify **us** of such determination in writing within 90 days after any **claim** or **coverage enhancement** involving an **outside entity executive** is first reported to **us**.

If **you** do not provide **us** with any determination regarding the status of an **outside entity executive**, **we** will treat the person as if they were not acting at an **insured organization's** specific request or direction, and no coverage will be provided to them for that **claim** or **coverage enhancement**.

### Affiliate

means any entity listed as such by endorsement to this policy.

## IV. Defense and settlement of claims

### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

However, it will be the **insured organization's** duty to investigate and evaluate any **derivative demand** against its own **executives**; but **we** will be entitled to effectively associate in the investigation, evaluation, negotiation, or settlement of any **derivative demand**.

### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:
1. the amount of **our** recommended settlement;
  2. **claim expenses** incurred up to the date of **our** recommendation;
  3. 90% of all **claim expenses** incurred after **our** recommendation; and
  4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses**. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.
- In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

## V. Your obligations

### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Notifying us of potential claims

- B. **You** have the option of notifying **us** of a potential claim that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

### Retention

- C. **Our** obligation to pay the **loss** of an **insured organization**, **indemnifiable loss**, or **coverage enhancements** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **wrongful act** or **related wrongful acts**.

No **retention** will apply to any **reputation loss**, **investigation costs**, or **non-indemnifiable loss** under Insuring agreement A. Individual insurance.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

### VI. Exclusions – What is not covered

#### Exclusions applicable to the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement** (other than **reputation loss**):

- |                               |  |
|-------------------------------|--|
| Bodily injury/property damage | <p>1. based upon or arising out of any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. bodily injury, sickness, disease, or death of any person; or</li> <li>b. damage to, loss of use, or destruction of any tangible property,</li> </ul> <p>except that <b>we</b> will pay <b>claim expenses</b> incurred in the defense of a <b>claim</b> brought against an <b>insured organization</b> for any violation of the UK Corporate Manslaughter and Corporate Homicide Act of 2007, as may be amended, or any rules or regulations promulgated under such law.</p> <p>However, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>i. an otherwise covered <b>claim</b> against <b>you</b> for emotional distress or mental anguish resulting from a <b>wrongful act</b>, but only if the emotional distress or mental anguish does not result from or relate to any bodily injury, sickness, disease, or death of any person; or</li> <li>ii. any <b>securities claim</b>.</li> </ul>   |
| Captive insurance company     | <p>2. based upon or arising out of an <b>insured organization's management control</b>, maintenance, management, or direction of a captive insurance company.</p>  |
| Employment-related liability  | <p>3. based upon or arising out of any employment-related act or failure to act, including but not limited to any actual or alleged:</p> <ul style="list-style-type: none"> <li>a. employment practices wrongful act, including but not limited to any: <ul style="list-style-type: none"> <li>i. breach of an implied contract;</li> <li>ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;</li> <li>iii. employment-related misrepresentation(s);</li> <li>iv. harassment, sexual harassment, or hostile work environment;</li> <li>v. <b>retaliation</b>;</li> <li>vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the giving of negative or defamatory statements in connection with an employment reference;</li> <li>vii. wrongful deprivation of a career opportunity with an <b>insured organization</b>, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;</li> <li>viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or</li> </ul> </li> </ul> |

## Private Healthcare D&O Coverage Part

- ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of an individual's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
  - b. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
  - c. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
  - d. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.
- Fraudulent/criminal acts      4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing that such conduct was committed in the **claim** or **coverage enhancement** at issue.
- Illegal payment to an insured      5. based upon or arising out of any remuneration paid to an **insured** without the prior consent of an **insured organization's** security holders if any final, non-appealable adjudication establishes such payment was illegal.
- Influential payments      6. based upon or arising out of any actual or alleged:
  - a. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any domestic or foreign governmental or armed services official, agent, representative, or employee; any member of their family; or any entity with which they are affiliated;
  - b. payments, commissions, gratuities, benefits, or any other favors to or for the benefit of any official, director, agent, partner, representative, member, principal security holder, owner, employee, affiliate (as defined in the Securities Exchange Act of 1934, including any of their officers, directors, agents, owners, partners, representatives, principal security holders, or employees), or customer of an **insured organization**; any member of their family; or any entity with which they are affiliated; or
  - c. domestic or foreign political contribution.
- Insured vs. insured      7. brought by or on behalf of (i) any **insured** against another **insured**, or (ii) a security holder of an **insured organization**.  
 However, this exclusion will not apply to any **claim**:
  - a. brought by an **insured person** in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a **claim** otherwise covered by this policy;
  - b. brought by a security holder of an **insured organization**, either directly or derivatively, but only if such **claim** is instigated and continued without any solicitation, assistance, active participation, or intervention of the **insured organization** or one of its **executives**;
  - c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an **insured organization** in any bankruptcy proceeding by or against it;
  - d. brought by an **employee** in their capacity as such;
  - e. brought by a former **executive** of an **insured organization** who has not been a(n) **executive**, General Counsel, Risk Manager, or consultant of an **insured organization** for at least two years before the **claim** was first made;
  - f. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any **executive** of an **insured organization** who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation

promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or

- g. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an **executive** of an **insured organization** that was created and operates in the same country where the **claim** was made.

For purposes of this exclusion, **employee** does not include an **executive** acting in any capacity.

Medical malpractice	8.	based upon or arising out of any <b>insured's</b> actual or alleged medical malpractice or breach of any duties owed as a healthcare provider, including but not limited to the rendering of or failure to render medical services, treatment, diagnosis, or advice.
Outside entity executive	9.	<p>brought by or on behalf of (i) an <b>outside entity</b> or one of its <b>executives</b> for any <b>wrongful act</b> arising out of an <b>insured person</b> serving in the capacity of an <b>outside entity executive</b>, or (ii) a security holder of an <b>outside entity</b>.</p> <p>However, this exclusion will not apply to any <b>claim</b>:</p> <ul style="list-style-type: none"> <li>a. brought by an <b>outside entity executive</b> in the form of a cross-claim or third party claim for contribution or indemnity that is part of and directly results from a <b>claim</b> otherwise covered by this policy;</li> <li>b. brought by a security holder of an <b>outside entity</b>, either directly or derivatively, but only if such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of such <b>outside entity</b> or one of its <b>executives</b>;</li> <li>c. brought by the receiver, conservator, liquidator, trustee, rehabilitator, examiner (or similar official), or creditors' committee (or any assignee of any of these) of an <b>outside entity</b> in any bankruptcy proceeding by or against it;</li> <li>d. brought by a former <b>outside entity executive</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>outside entity</b> for at least two years before the <b>claim</b> was first made;</li> <li>e. which was instigated by or involves the solicitation, assistance, active participation, or intervention of any <b>outside entity executive</b> who is a whistleblower under Section 806 of the Sarbanes-Oxley Act of 2002 (including any rule or regulation promulgated under such Act), or any similar state or federal whistleblower statute, rule, or regulation; or</li> <li>f. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>outside entity executive</b> of an <b>outside entity</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul>
Pollution/environmental	10.	<p>based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; however, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. <b>non-indemnifiable loss</b>, other than <b>clean-up costs</b>; or</li> <li>b. <b>loss</b> in connection with a <b>securities claim</b>, other than <b>clean-up costs</b>.</li> </ul>
Prior notice/knowledge	11.	<p>based upon or arising out of any actual or alleged <b>wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. with respect to an <b>outside entity executive</b>, any <b>insured</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>wrongful act</b></li> </ul>



could result in a **claim**.

This exclusion also applies to any **related claims** resulting from the same **wrongful acts** or **related wrongful acts** related to the matters in parts a, b, or c above.

Public offering of securities	12.	based upon or arising out of any public offering of securities by an <b>insured organization</b> , <b>outside entity</b> , or <b>affiliate</b> , or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to: <ul style="list-style-type: none"> <li>a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the <b>named insured</b> provides <b>us</b> with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event no later than 30 days after the effective date of the exempt public offering; or</li> <li>b. any <b>claim</b> made by any security holder of an <b>insured organization</b> for its failure to undertake or complete the initial public offering or sale of its securities.</li> </ul>
Purchase of publicly traded entity securities	13.	based upon or arising out of any purchase by an <b>insured organization</b> of securities of a <b>publicly traded entity</b> in a transaction which resulted, or would result, in such entity becoming a <b>subsidiary</b> of the <b>insured organization</b> .
Sexual misconduct/child abuse	14.	based upon or arising out of any: <ul style="list-style-type: none"> <li>a. actual, alleged, or threatened abuse, molestation, harassment, mistreatment, maltreatment, or assault of a sexual nature;</li> <li>b. actual, alleged, or threatened child abuse or neglect; or</li> <li>c. actual or alleged employment, investigation, supervision, training, or retention of a person who commits conduct described in part a or b above.</li> </ul>
Statutory violations	15.	for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974;</li> <li>b. the Fair Labor Standards Act;</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul> all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws.
Third party violations	16.	based upon or arising out of any actual or alleged <b>third party violation</b> ; however, this exclusion will not apply to any <b>securities claim</b> .
Unjust enrichment	17.	based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.
<b>Exclusions applicable only to Insuring agreement C. Insured organization insurance</b>		<b>We</b> will have no obligation to pay any sums for any <b>claim</b> under Insuring agreement C. Insured organization insurance:
Breach of contract	18.	based upon or arising out of any actual or alleged breach of any express written contract or agreement, or any liability of others <b>you</b> assume under any express written contract or agreement; however, this exclusion will not apply to liability <b>you</b> would have in the absence of the express written contract or agreement.
Fines and penalties/non-	19.	seeking fines, penalties, or non-monetary relief against the <b>insured organization</b> ; however,



monetary relief	this exclusion will not apply to any <b>securities claim</b> .
Intellectual property	20. based upon or arising out of any actual or alleged infringement, use, or disclosure of any intellectual property, including but not limited to copyright, trademark, trade dress, patent, service mark, service name, title, or slogan, or any publicity rights violations, cyber squatting violations, moral rights violations, any act of passing-off, or any misappropriation of trade secret.
Invasion of privacy/assault and battery	21. for any injury resulting from any invasion of privacy, abuse of process, malicious prosecution, libel, slander, defamation, trespass, nuisance, wrongful entry or eviction, false arrest or imprisonment, assault, battery, or loss of consortium.
Professional services	22. based upon or arising out of any actual or alleged negligent act, error, or omission in <b>your</b> performance of or failure to perform any <b>professional services</b> for others; however, this exclusion will not apply to any <b>securities claim</b> .
<b>Exclusions applicable only to reputation loss</b>	
Prior notice	23. based upon or arising out of the same or related facts or <b>reputation risk event</b> that was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time.
Prior and pending litigation	24. based upon or arising out of a <b>reputation risk event</b> that was the subject of, or is related to, any prior or pending litigation, <b>claim</b> , written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b> .
Pollution/environmental	25. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> .
Nuclear materials	26. based upon or arising out of the hazardous properties of nuclear materials.

For purposes of determining the applicability of exclusions 4, 5, 6, or 17, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such

	proceeding;
	5. an arbitration proceeding against an <b>insured</b> , commenced by the service on the <b>insured</b> of a demand for arbitration (or similar document), or an appeal of any such proceeding;
	6. a civil, criminal, administrative, or regulatory investigation of an <b>insured person</b> by a domestic or foreign governmental or regulatory entity, commenced by: <ul style="list-style-type: none"> <li>a. the identification of such <b>insured person</b> by the investigating authority as a person against whom a proceeding under parts 2, 3, 4, or 5 of this definition may be commenced; or</li> <li>b. in the event of an investigation by the Securities Exchange Commission (SEC) or a similar domestic or foreign governmental authority, the service on the <b>insured person</b> of a subpoena or a Wells Notice, target letter, or formal order of investigation;</li> </ul>
	7. a written request to toll or waive a statute of limitations;
	8. a <b>securities claim</b> ;
	9. an <b>extradition action</b> , with respect to Coverage enhancement B. Extradition costs; or
	10. a <b>derivative demand</b> , with respect to Coverage enhancement E. Derivative demand sublimit.
<b>Claim expenses</b>	means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent: <ul style="list-style-type: none"> <li>1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ul> <b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b> .
<b>Cleanup costs</b>	means expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b> .
<b>Coverage enhancements</b>	means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.
<b>Derivative demand</b>	means a written demand by one or more security holders of an <b>insured organization</b> , made upon the board of directors (or equivalent management body) without the assistance, participation, or solicitation of any <b>executive</b> , requesting that it file, on behalf of the <b>insured organization</b> , a civil proceeding against any <b>executive</b> of the <b>insured organization</b> for a <b>wrongful act</b> of such <b>executive</b> , and which seeks relief from damages arising out of such <b>wrongful acts</b> .
<b>Excess benefit</b>	means an "excess benefit" as defined in Section 4958 of the Internal Revenue Code, 26 U.S.C. § 4958.
<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Indemnifiable loss</b>	means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).

### Insured organization

means:

1. the **named insured**;
2. any **subsidiary**; or
3. any **affiliate**.

### Insured person

means:

1. an **employee**;
2. an **executive** of an **insured organization**;
3. the General Counsel or Risk Manager (or equivalent position) of the **named insured** or any **subsidiary**;
4. an **independent contractor**; or
5. an **outside entity executive**.

### Investigation costs

means the reasonable and necessary fees, costs, and expenses incurred with **our** consent by an **insured organization**, or its board of directors or any committee of the board of directors (or equivalent management bodies), in connection with an investigation to determine whether the **insured organization** should bring the civil proceeding demanded in a **derivative demand**, including attorney's fees and expert's fees. **Investigation costs** does not include any settlement, judgment, or damages, or the compensation or fees of any **insured person**.

### Loss

means the following amounts incurred after **you** have reported a **claim** or **coverage enhancement** to **us** and with **our** consent:

1. damages or a judgment **you** are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);
2. a monetary settlement agreed to by **you** and **us**;
3. **claim expenses**; including those resulting from a **claim** for tax liability under the Internal Revenue Code, 26 U.S.C. §§ 4911, 4940(a), 4941, 4942, 4943, 4944, 4945, 6652(c)(1)(A) and (B), 6655(a)(1), or 6656(a) and (b);
4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage;
5. **excess benefit** penalties assessed in the amount of 10% by the Internal Revenue Service ("IRS") against any **insured** for an **executive's** involvement in the award of an **excess benefit** and any **claim expenses** resulting from such assessment; however, such **loss** does not include:
  - i. any 25% penalty assessed by the IRS against an **insured** deemed to have received an **excess benefit**;
  - ii. **claim expenses** to defend an **insured person** if such person is deemed to have received an **excess benefit**; or
  - iii. any 200% penalty assessed by the IRS resulting from the failure to correct the award of an **excess benefit**; and/or
6. any other amounts **we** have explicitly agreed to pay under Section II. Coverage enhancements.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay civil fines and penalties if they are part of a covered **claim** under Coverage enhancement F. EMTALA fines and penalties sublimit;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority), except **we** will pay **excess benefit** penalties as described in part 5 above;

- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief;
- e. the return of funds received from any federal, state, or local governmental agency and any interest, fines, or penalties resulting from the return of such funds; or
- f. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above, but any **claim expenses we** pay to defend a **claim** seeking amounts excluded under part e are subject to Coverage enhancement G. Government funding defense sublimit.

**Non-indemnifiable loss** means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

**Outside entity** means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**; or
2. other entity listed as an **outside entity** by endorsement to this policy.

**Pollutants** means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

**Potential claim** means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

**Professional services** means services **you** normally provide to others for a fee in the course of **your** regular business operations.

**Publicly traded entity** means any entity which has any of its securities trading on a stock exchange or an over the counter market.

**Reputation loss** means the following reasonable and necessary fees, costs, and expenses incurred in connection with a **reputation risk event** either 90 days prior to and in anticipation of, or 90 days after, the **reputation risk event** for:

1. a risk management, public relations, or law firm **you** retain with **our** prior written consent to advise **you** on minimizing potential harm to an **insured organization**, including maintaining and restoring public confidence in such **insured organization**; and
2. the printing, advertising, or mailing of materials in the performance of the services described in part 1 above.

**Reputation risk event** means the public announcement of one of the following events which, in the good faith opinion of an **insured organization**, did cause or is reasonably likely to cause the publication, broadcast, or circulation of unfavorable information about an **insured organization** which can reasonably be expected to lessen public confidence in the competence of the **insured organization** or its goods, products, and/or services, received or circulated in the **insured organization's** geographic area:

1. Management risk event: the death, incapacity, or criminal indictment of any **insured person** for whom an **insured organization** maintains key person life insurance;
2. Bankruptcy/debt default/downsizing: (a) an **insured organization** intends to file for bankruptcy protection or a third party is seeking to file for involuntary bankruptcy on its behalf; (b) an **insured organization** has defaulted or intends to default on any debt obligation; or (c) the closing or forced sale of a department/unit/division of an **insured organization**;
3. Regulatory action: the commencement or threat of litigation or other proceedings by any governmental or regulatory agency against an **insured organization**;
4. Bodily injury/abuse: an accusation that an **insured person** (or a person an **insured** is legally responsible for), while in the course of performance of their duties for or on behalf of an

**insured organization**, has intentionally caused bodily injury to or the death of any person;

5. Workplace violence: an **employee** of an **insured organization** was the victim of a violent crime while on the premises of such **insured organization**; or
6. Child abduction: a child was abducted or kidnapped while under the care or supervision of an **insured organization**.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;
2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Private Healthcare D&O Coverage Part section of the Declarations.

### Securities claim

means a **claim** made against an **insured**:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities, or
2. brought derivatively on behalf of an **insured organization** by one of its security holders.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### Wrongful act

means:

1. with respect to any **executive, employee, or independent contractor** of an **insured organization**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such persons solely by reason of their status as such;
2. with respect to an **insured organization** under Insuring agreement C. Insured organization insurance, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by the **insured organization**; or
3. with respect to an **outside entity executive**, any breach of duty, neglect, error, misstatement, misleading statement, omission, or act by them in their capacity as such, or any matter claimed against such **outside entity executive** solely by reason of their status as such.

### You, your, or insured

means a **named insured, subsidiary, employee, executive, independent contractor, outside**

entity executive, or affiliate, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

- |                                |   |
|--------------------------------|---|
| Worldwide coverage             | <p>A. If a <b>claim</b> or <b>coverage enhancement</b> is made or initiated against <b>you</b> in a <b>foreign jurisdiction</b> resulting from a <b>wrongful act</b> committed in such <b>foreign jurisdiction</b>, the provisions of the <b>foreign policy</b> most favorable to <b>you</b> will apply to that <b>claim</b> or <b>coverage enhancement</b>. Any provisions in the <b>foreign policy</b> will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to <b>you</b>.</p> <p>However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a <b>foreign jurisdiction</b>.</p>  |
| Order of payments              | <p>B. In the event <b>loss</b> resulting from any <b>claim</b> or <b>coverage enhancement</b> covered by this Coverage Part exceeds the remaining available Limit of Liability, <b>we</b> will:</p> <ol style="list-style-type: none"> <li>1. first pay <b>loss</b> covered under Insuring agreement A. Individual insurance;</li> <li>2. then pay <b>loss</b> covered under Insuring agreement B. Insured organization reimbursement; and</li> <li>3. then pay <b>loss</b> covered under Insuring agreement C. Insured organization insurance and Section II. Coverage enhancements;</li> </ol> <p>however, for any <b>loss</b> resulting from a <b>claim</b> or <b>coverage enhancement</b> covered by this Coverage Part, including <b>loss</b> that exceeds the available Limit of Liability, <b>we</b> will, at the written request of the <b>named insured</b>:</p> <ol style="list-style-type: none"> <li>a. first pay <b>loss</b> covered under Insuring agreement A. Individual insurance; and</li> <li>b. then either pay or hold payment for <b>loss</b> covered under Insuring agreements B. Insured organization reimbursement and C. Insured organization insurance, or Section II. Coverage enhancements.</li> </ol> <p>If <b>we</b> hold payment for <b>loss</b> under part b above, <b>we</b> will, at the written request of the <b>named insured</b>, release such amounts to an <b>insured organization</b> or <b>insured person</b> to pay <b>loss</b> covered under Insuring agreement A. Individual insurance.</p> <p><b>Your</b> bankruptcy or <b>insolvency</b> will not relieve <b>us</b> of any of <b>our</b> obligations to prioritize payments under this Coverage Part.</p> |
| Derivative demand payment      | <p>C. An <b>insured organization</b> will be entitled to payment under Coverage enhancement E. Derivative demand sublimit for reimbursement of its covered <b>investigation costs</b> 90 days after:</p> <ol style="list-style-type: none"> <li>1. the <b>insured organization</b> has made its final decision not to bring a civil proceeding against any of its <b>executives</b>; and</li> <li>2. such decision has been communicated to the security holder(s) who made the <b>derivative demand</b>.</li> </ol> <p>However, any payment <b>we</b> make will be subject to an agreement by the <b>insured organization</b>, in a form acceptable to <b>us</b>, that the <b>insured organization</b> will return such payment to <b>us</b> in the event any <b>insured organization</b> or any of its security holders brings a <b>claim</b> based upon or arising out of any <b>wrongful acts</b> that were the subject of the <b>derivative demand</b>.</p>  |
| Public securities transactions | <p>D. If, during the policy period stated in Item 2 of the Declarations, the <b>named insured</b> intends to sell or offer to sell securities issued at any time by the <b>named insured</b> in a transaction that is not exempt from registration under the Securities Act of 1933, as may be amended, the <b>named insured</b> will, no later than 30 days prior to the effective date of the registration statement for such sale or offering, give <b>us</b> written notice of the proposed sale or offering and</p>  |

## Private Healthcare D&O Coverage Part

all information **we** request relating to it. There will be no coverage for such transaction unless **we** expressly decide to provide coverage for it.

If, during the policy period stated in Item 2 of the Declarations, an **insured organization** purchases securities of a **publicly traded entity** in a transaction which would result in such entity becoming a **subsidiary**, the **named insured** will, no later than 30 days prior to such entity becoming a **subsidiary**, give **us** written notice of the proposed purchase and all information **we** request relating to it. There will be no coverage for such **publicly traded entity** unless **we** expressly decide to provide coverage for it.



### I. Insuring agreements

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **employed lawyers wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

Individual insurance

A. On behalf of an **insured person**, we will pay **loss** resulting from a **claim** against the **insured person** for such person's actual or alleged **employed lawyers wrongful acts**, and that is not indemnified by an **insured organization**.

Insured organization reimbursement

B. On behalf of an **insured organization**, we will pay **loss** resulting from a **claim** against an **insured person** for such person's actual or alleged **employed lawyers wrongful acts**, but only to the extent the **insured organization** has indemnified the **insured person**.

### II.

*[This section intentionally left blank]*

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employed lawyer**, **supporting employee**, **agency attorney**, **independent contractor**, or **affiliate**, as defined below:

**Named insured**

means the entity identified in Item 1 of the Declarations.

**Subsidiary**

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **employed lawyers wrongful acts** occurring during the course of such **management control** or sponsorship.

**Employed lawyer**

means any licensed attorney, but solely while an **employee** of an **insured organization**; however, **employed lawyer** does not include any **secondment attorney**.

**Supporting employee**

means any **employee** of an **insured organization** who supports an **employed lawyer** in the performance of **legal services** for or on behalf of an **insured organization**.

**Agency attorney**

means any licensed attorney provided by an employment contractor or agency under a written agreement between an **insured organization** and the employment contractor or agency to perform **legal services** for or on behalf of an **insured organization**.

**Independent contractor**

means any licensed attorney contracted by an **insured organization** to provide **legal services** for or on behalf of such **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim**. Such request must be made in writing and within 90 days after the **claim** is first reported to **us**.

**Affiliate**

means any entity listed as such by endorsement to this policy.

### IV. Defense and settlement of claims

#### Defense

- A. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

#### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

#### Allocation

- C. The following allocation provisions will apply to all **claims**:

1. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:
  - a. 100% of all **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

#### Notifying us of claims

- A. **You** must give written notice to **us** of any **claim** as soon as possible once such **claim** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

## Employed Lawyers Coverage Part

Notifying us of potential claims	<p>All such notifications must be in writing, include a copy of the <b>claim</b>, and must be submitted to <b>us</b> via the designated email address or mailing address stated in Item 6 of the Declarations.</p>
	<p>B. <b>You</b> have the option of notifying <b>us</b> of a <b>potential claim</b> that may lead to a covered <b>claim</b> against <b>you</b>, provided <b>you</b> first become aware of such <b>potential claim</b> during the <b>policy period</b>.</p> <p>In order to do so, <b>you</b> must give written notice to <b>us</b> as soon as possible and within the <b>policy period</b>, and the notice must identify the details of the <b>potential claim</b>, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the <b>potential claim</b> <b>we</b> may reasonably request.</p> <p>The benefit to <b>you</b> of notifying <b>us</b> of a <b>potential claim</b> is that if an actual <b>claim</b> arises from the same circumstances as the properly notified <b>potential claim</b> and results in a covered <b>claim</b>, then <b>we</b> will treat that <b>claim</b> as though it had been notified on the date <b>you</b> properly notified <b>us</b> of the <b>potential claim</b>, even if the <b>claim</b> is first made against <b>you</b> after the <b>policy period</b> has expired.</p> <p>All <b>potential claim</b> notifications must be in writing and submitted to <b>us</b> via the designated email address or mailing address stated in Item 6 of the Declarations.</p>
Retention	<p>C. <b>Our</b> obligation to pay the <b>loss</b> of an <b>insured organization</b> or <b>indemnifiable loss</b> is in excess of the applicable <b>retention</b>, which <b>you</b> must pay before <b>we</b> will be obligated to make any payment. <b>You</b> will remain responsible for the <b>retention</b>, which <b>you</b> agree not to insure. A single <b>retention</b> will apply to <b>loss</b> resulting from all <b>related claims</b> alleging the same <b>employed lawyers wrongful act</b> or <b>related wrongful acts</b>.</p> <p>If the <b>insured organization</b> is unable to pay the <b>retention</b> due to its bankruptcy or insolvency, <b>we</b> will make commercially reasonable best efforts to issue payment of covered <b>loss</b> within the applicable <b>retention</b> within 60 days after <b>we</b> receive all documentation necessary to enable <b>us</b> to make such payment. However, <b>we</b> will have the right to recover the amount of such advanced <b>loss</b> from the <b>insured organization</b> or, in the event of the <b>insured organization's</b> bankruptcy, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from <b>our</b> subrogation rights under this Coverage Part or any other rights <b>we</b> may have under applicable law.</p> <p>No retention will apply to any:</p> <ol style="list-style-type: none"> <li>1. <b>non-indemnifiable loss</b>; or</li> <li>2. <b>claim</b> covered by any other valid and collectible management liability insurance available to an <b>insured person</b>, including any self-insurance program.</li> </ol>

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

Bodily injury/property damage	<p><b>We</b> will have no obligation to pay any sums under this Coverage Part for any <b>claim</b>:</p>
	<ol style="list-style-type: none"> <li>1. for any: <ol style="list-style-type: none"> <li>a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or</li> <li>b. damage to, loss of use, or destruction of any tangible property.</li> </ol> <p>However, this exclusion will not apply to any mental anguish or emotional distress resulting from an otherwise covered <b>claim</b> for <b>personal injury</b>.</p> </li> <li>2. brought by or on behalf of an <b>insured organization</b> against any <b>insured person</b>, except that <b>we</b> will pay <b>claim expenses</b> incurred in the defense of such a <b>claim</b>.</li> <li>3. based upon or arising out of any employment-related act or failure to act, including but not</li> </ol>

## Employed Lawyers Coverage Part

and third party violations

limited to any actual or alleged:

- a. employment practices wrongful act, including but not limited to any:
  - i. breach of an implied contract;
  - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - iii. employment-related misrepresentation(s);
  - iv. harassment, sexual harassment, or hostile work environment;
  - v. **retaliation**;
  - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
  - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
  - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
  - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of a person's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
- b. **third party violation**;
- c. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
- d. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
- e. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.

However, parts a and b of this exclusion will not apply to any **claim** resulting from **legal services** performed by an **insured person** and relating to the employment-related practices listed in parts a and b above.

Entity acquisition

4. based upon or arising out of any actual or alleged inadequate price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all ownership interest in or assets of an entity, except that **we** will pay **claim expenses** incurred in the defense of such a **claim**.

This exclusion will not apply to **non-indemnifiable loss**.

Fraudulent/criminal acts

5. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the **claim** at issue.

Misappropriation of funds

6. based upon or arising out of any actual or alleged theft, misappropriation, commingling, or conversion of funds, monies, assets, or property, if a final, non-appealable adjudication establishes any **insured** engaged in the conduct described in either the "Fraudulent/criminal acts" or "Unjust enrichment" exclusion.

Notarization without physical appearance

7. based upon or arising out of any actual or alleged notarization, certification, or acknowledgment of a signature without the physical appearance of the person making the

## Employed Lawyers Coverage Part

- |                               |  |
|-------------------------------|--|
| Patents/trade secrets         | 8. signature at the time of such notarization, certification, or acknowledgment.<br>based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.   |
| Pollution/environmental       | 9. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to any <b>claim</b> directly resulting from <b>legal services</b> performed by an <b>insured person</b> .   |
| Prior notice/knowledge        | 10. based upon or arising out of any actual or alleged <b>employed lawyers wrongful act</b> that: <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. <b>you</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>employed lawyers wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>employed lawyers wrongful acts</b> or <b>related wrongful acts</b> related to the matters in part a, b, or c above.</p>                                  |
| Public offering of securities | 11. based upon or arising out of any public offering of securities by an <b>insured organization</b> , <b>outside entity</b> , or <b>affiliate</b> , or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to: <ul style="list-style-type: none"> <li>a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the <b>named insured</b> provides <b>us</b> with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event not later than 30 days after the effective date of the exempt public offering; or</li> <li>b. any <b>claim</b> made by any security holder of an <b>insured organization</b> for its failure to undertake or complete the initial public offering or sale of its securities.</li> </ul>  |
| Security holder/member claims | 12. brought by or on behalf of a security holder or member of an <b>insured organization</b> , either directly or derivatively, unless such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of an <b>insured organization</b> , an <b>insured person</b> , or an <b>executive</b> of an <b>insured organization</b> .<br><br>However, this exclusion will not apply to any <b>claim</b> : <ul style="list-style-type: none"> <li>a. brought by a former <b>executive</b> of an <b>insured organization</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>insured organization</b> for at least two years before the <b>claim</b> was first made; or</li> <li>b. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>executive</b> of an <b>insured organization</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul> |
| Statutory violations          | 13. for any violation of the following laws: <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974 ("ERISA");</li> <li>b. the Fair Labor Standards Act (except the Equal Pay Act);</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul>  |

all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws; however, this exclusion will not apply to any **claim** resulting from **legal services** provided by an **employed lawyer** to an ERISA fiduciary.

Unjust enrichment

14. based upon or arising out of any actual or alleged profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

For purposes of determining the applicability of exclusions 5, 6, and 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, or Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Administrative proceeding claim

means a judicial, administrative, bar association, or other proceeding against an **employed lawyer** concerning:

1. the eligibility or license of such **employed lawyer** to practice law; or
2. compliance with the Sarbanes-Oxley Act of 2002, as may be amended, or any similar provisions of any federal, state, local, or foreign law, or any rules or regulations promulgated under such Act or laws.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a written request to toll or waive a statute of limitations;
7. an **administrative proceeding claim**; or
8. a **securities claim**.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, adjustment, defense, or appeal of a **claim** against an **insured person**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.



<b>Employed lawyers wrongful act</b>	<p>means any actual or alleged:</p> <ol style="list-style-type: none"> <li>1. negligent act, error, omission, breach of duty, misstatement, or misleading statement; or</li> <li>2. <b>personal injury</b>,</li> </ol> <p>committed by an <b>insured person</b> in the performance of <b>legal services</b>.</p>
<b>Employee</b>	<p>means any past, present, or future employee of an <b>insured organization</b>, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.</p>
<b>Executive</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee) or member of the Board of Managers or advisory board of an <b>insured organization</b> (or equivalent position);</li> <li>2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a <b>foreign jurisdiction</b>; or</li> <li>3. General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>,</li> </ol> <p>but only while acting in their capacity as such.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employed lawyer</b>;</li> <li>2. a <b>supporting employee</b>;</li> <li>3. an <b>agency attorney</b>; or</li> <li>4. an <b>independent contractor</b>.</li> </ol>
<b>Legal services</b>	<p>means any professional services that are generally performed by a licensed attorney and are rendered by:</p> <ol style="list-style-type: none"> <li>1. an <b>employed lawyer</b>, but solely in their capacity as an <b>employee</b>;</li> <li>2. an <b>employed lawyer</b>, but solely while a full-time, permanent <b>employee</b> (including <b>moonlighting services</b> and <i>pro bono</i> services); or</li> <li>3. any <b>insured person</b>, but solely while acting under the supervision and at the direction of an <b>employed lawyer</b>.</li> </ol> <p><b>Legal services</b> also includes notarizing, certifying, or acknowledging any signature rendered in connection with parts 1 through 3 above.</p>
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>; and/or</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors</li> </ol>



coverage.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through d above.

### **Moonlighting services**

means professional services that are generally performed by an attorney and are rendered by an **employed lawyer** outside the scope of their employment with an **insured organization**; however, **moonlighting services** does not include services performed by an **employed lawyer** in their capacity as a(n) owner, principal, partner, or employee of an entity that is not an **insured organization**.

### **Non-indemnifiable loss**

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### **Outside entity**

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**, of which an **executive** of an **insured organization** serves as a director, officer, trustee, trustee emeritus, or governor, but only if such service is at the specific request or direction of an **insured organization**; or
2. other entity listed as an **outside entity** by endorsement to this Coverage Part.

### **Personal injury**

means any:

1. false arrest, detention, or imprisonment;
2. malicious prosecution or abuse of process;
3. libel, slander, or other publication of defamatory or disparaging materials;
4. publication or utterance in violation of a person's right to privacy;
5. wrongful entry or eviction or other invasion of the right to private occupancy;
6. mental anguish or emotional distress, but only if resulting from, alleged in conjunction with, and based on the same allegations as a **claim** for parts 1 through 5 above.

### **Pollutants**

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### **Potential claim**

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### **Retaliation**

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;

2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Employed Lawyers Coverage Part section of the Declarations.

### Secondment attorney

means a licensed attorney who is not an **employee** of an **insured organization**, but is rather employed by an outside law firm and is temporarily assigned by an agreement between such law firm and an **insured organization** to perform **legal services** under the supervision or at the direction of an **insured organization**.

### Securities claim

means a **claim** made against an **insured person** based upon or arising out of **legal services** and:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities;
2. brought derivatively on behalf of an **insured organization** by one of its security holders; or
3. which is brought as a:
  - a. criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document); or
  - b. civil, administrative, or regulatory investigation of an **insured person** by the Securities and Exchange Commission, Department of Justice, or a similar domestic or foreign governmental authority, commenced by the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation,

but only if brought in conjunction with and based on the same allegations as a **claim** for part 1 or 2 above.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### You, your, or insured

means a **named insured**, **subsidiary**, **employed lawyer**, **supporting employee**, **agency attorney**, **independent contractor**, or **affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** is made against **you** in a **foreign jurisdiction** resulting from an **employed lawyers**

## Employed Lawyers Coverage Part

**wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

### Order of payments

B. In the event **loss** resulting from any **claim** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:

1. first pay **loss** covered under Insuring agreement A. Individual insurance; and
2. then pay **loss** covered under Insuring agreement B. Insured organization reimbursement;

however, for any **loss** resulting from a **claim** covered by this Coverage Part, including **loss** that exceeds the available Limit of Liability, **we** will, at the written request of the **named insured**:

- a. first pay **loss** covered under Insuring agreement A. Individual insurance; and
- b. then either pay or hold payment for **loss** covered under Insuring agreement B. Insured organization reimbursement.

If **we** hold payment for **loss** under part b above, **we** will, at the written request of the **named insured**, release such amounts to an **insured organization** or **insured person** to pay **loss** covered under Insuring agreement A. Individual insurance.

**Your** bankruptcy or insolvency will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

### Insured organization coverage

C. **We** will have no obligation to pay any sums under this Coverage Part for any:

1. **claim expenses** incurred by;
2. settlements by or on behalf of;
3. contractual obligations of; or
4. judgments against,

any entity, including any such sums based upon or arising out of (i) a **claim** made against an **insured organization**, (ii) any legal obligation to pay any amount that such **insured organization** has or may have to a claimant, or (iii) the acts or omissions of any **insured person**.

Coverage is not available under Insuring agreement A. Individual insurance for any **insured organization**. An **insured organization** is covered only with respect to its indemnification of any **insured person** under Insuring agreement B. Insured organization reimbursement, for any **claim** against such **insured person**.

### Other insurance

D. The following provision applies in addition to the provisions of the General Terms and Conditions, Section V. Other provisions affecting coverage, G. Other insurance:

This Coverage Part is specifically excess of and will not contribute with any other valid and collectible management liability insurance available to an **insured person**, including any self-insurance program, and **we** will not have any duty to defend or obligation to pay **loss** or **claim expenses** until the applicable limits of any such insurance have been exhausted.

### I. Insuring agreements

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **employed lawyers wrongful act** as follows, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations:

Individual insurance

A. On behalf of an **insured person**, we will pay **loss** resulting from a **claim** against the **insured person** for such person's actual or alleged **employed lawyers wrongful acts**, and that is not indemnified by an **insured organization**.

Insured organization reimbursement

B. On behalf of an **insured organization**, we will pay **loss** resulting from a **claim** against an **insured person** for such person's actual or alleged **employed lawyers wrongful acts**, but only to the extent the **insured organization** has indemnified the **insured person**.

### II.

*[This section intentionally left blank]*

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **employed lawyer**, **supporting employee**, **agency attorney**, **independent contractor**, or **affiliate**, as defined below:

**Named insured**

means the entity identified in Item 1 of the Declarations.

**Subsidiary**

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **employed lawyers wrongful acts** occurring during the course of such **management control** or sponsorship.

**Employed lawyer**

means any licensed attorney, but solely while an **employee** of an **insured organization**; however, **employed lawyer** does not include any **secondment attorney**.

**Supporting employee**

means any **employee** of an **insured organization** who supports an **employed lawyer** in the performance of **legal services** for or on behalf of an **insured organization**.

**Agency attorney**

means any licensed attorney provided by an employment contractor or agency under a written agreement between an **insured organization** and the employment contractor or agency to perform **legal services** for or on behalf of an **insured organization**.

**Independent contractor**

means any licensed attorney contracted by an **insured organization** to provide **legal services** for or on behalf of such **insured organization**, but only while acting in their capacity as such. An independent contractor will qualify as an **insured** only if the **insured organization** provides indemnification to such independent contractor in the same manner as provided to its own employees.

However, an **insured organization** may request that no coverage be provided for an independent contractor named in a specific **claim**. Such request must be made in writing and within 90 days after the **claim** is first reported to **us**.

**Affiliate**

means any entity listed as such by endorsement to this policy.

#### IV. Defense and settlement of claims

##### Defense

- A. **We** have the right and duty to defend any covered **claim**, even if such **claim** is groundless, false, or fraudulent.

**We** have the right to select and appoint counsel to defend **you** against any **claim**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to final disposition of a **claim**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** was first reported to **us**.

##### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

##### Allocation

- C. The following allocation provisions will apply to all **claims**:

1. If there is both covered **loss** and uncovered loss in connection with the same **claim**, **we** will make payment as follows:
  - a. 100% of all **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
  - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

#### V. Your obligations

##### Notifying us of claims

- A. **You** must give written notice to **us** of any **claim** as soon as possible once such **claim** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

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All such notifications must be in writing, include a copy of the **claim**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of **a potential claim** that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay the **loss** of an **insured organization** or **indemnifiable loss** is in excess of the applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims** alleging the same **employed lawyers wrongful act** or **related wrongful acts**.

If the **insured organization** is unable to pay the **retention** due to its bankruptcy or insolvency, **we** will make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or, in the event of the **insured organization's** bankruptcy, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

No retention will apply to any:

1. **non-indemnifiable loss**; or
2. **claim** covered by any other valid and collectible management liability insurance available to an **insured person**, including any self-insurance program.

## VI. Exclusions – What is not covered

### Exclusions applicable to the entire Coverage Part

Bodily injury/property damage

**We** will have no obligation to pay any sums under this Coverage Part for any **claim**:

1. for any:
  - a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or
  - b. damage to, loss of use, or destruction of any tangible property.

However, this exclusion will not apply to any mental anguish or emotional distress resulting from an otherwise covered **claim** for **personal injury**.

Insured organization vs. insured person

2. brought by or on behalf of an **insured organization** against any **insured person**, except that **we** will pay **claim expenses** incurred in the defense of such a **claim**.

Employment-related liability

3. based upon or arising out of any employment-related act or failure to act, including but not



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and third party violations

limited to any actual or alleged:

- a. employment practices wrongful act, including but not limited to any:
  - i. breach of an implied contract;
  - ii. violation of employment discrimination laws anywhere in the world, including but not limited to violations based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, sexual orientation or preference, or any other protected classes as determined by applicable law;
  - iii. employment-related misrepresentation(s);
  - iv. harassment, sexual harassment, or hostile work environment;
  - v. **retaliation**;
  - vi. employment-related libel, slander, defamation, humiliation, invasion of privacy, wrongful entry, false imprisonment, malicious prosecution, or the making of negative or defamatory statements in connection with giving an employment reference;
  - vii. wrongful deprivation of a career opportunity with an **insured organization**, or wrongful discipline, demotion, or failure to employ, promote, or grant tenure or practice privileges;
  - viii. wrongful termination of employment, including constructive termination, dismissal, or discharge; or
  - ix. negligent hiring, retention, training, or supervision; infliction of emotional distress or mental anguish; failure to provide or enforce adequate or consistent organizational policies and procedures; or violation of a person's civil rights alleged in conjunction with and based on the same allegations as a **claim** for parts i through viii above;
- b. **third party violation**;
- c. obligation under any workers' compensation, unemployment compensation, employers' liability, employee benefits, fair labor standards, labor relations, wage and hour, disability benefits, or social security benefits law, including any similar provisions of any federal, state, or local statutory or common law;
- d. liability or breach of any duty or obligation owed by **you** as an employer or prospective employer; or
- e. improper or inaccurate payroll deductions, failure to itemize or inaccurate wage statements, unpaid wages or overtime pay, or failure to provide or enforce legally required meal or rest breaks.

However, parts a and b of this exclusion will not apply to any **claim** resulting from **legal services** performed by an **insured person** and relating to the employment-related practices listed in parts a and b above.

Entity acquisition

4. based upon or arising out of any actual or alleged inadequate price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all ownership interest in or assets of an entity, except that **we** will pay **claim expenses** incurred in the defense of such a **claim**.

This exclusion will not apply to **non-indemnifiable loss**.

Fraudulent/criminal acts

5. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the **claim** at issue.

Misappropriation of funds

6. based upon or arising out of any actual or alleged theft, misappropriation, commingling, or conversion of funds, monies, assets, or property, if a final, non-appealable adjudication establishes any **insured** engaged in the conduct described in either the "Fraudulent/criminal acts" or "Unjust enrichment" exclusion.

Notarization without physical appearance

7. based upon or arising out of any actual or alleged notarization, certification, or acknowledgment of a signature without the physical appearance of the person making the



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Patents/trade secrets	8.	signature at the time of such notarization, certification, or acknowledgment. based upon or arising out of any actual or alleged infringement, use, disclosure, or misappropriation of any patent or trade secret.
Pollution/environmental	9.	based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b> ; however, this exclusion will not apply to any <b>claim</b> directly resulting from <b>legal services</b> performed by an <b>insured person</b> .
Prior notice/knowledge	10.	<p>based upon or arising out of any actual or alleged <b>employed lawyers wrongful act</b> that:</p> <ul style="list-style-type: none"> <li>a. was the subject of any notice given under any other policy of which this Coverage Part is a renewal or replacement, or which it succeeds in time;</li> <li>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice prior to the <b>continuity date</b>; or</li> <li>c. <b>you</b> had knowledge of prior to the <b>continuity date</b>, and there was a reasonable basis to believe that the <b>employed lawyers wrongful act</b> could result in a <b>claim</b>.</li> </ul> <p>This exclusion also applies to any <b>related claims</b> resulting from the same <b>employed lawyers wrongful acts</b> or <b>related wrongful acts</b> related to the matters in part a, b, or c above.</p>
Public offering of securities	11.	<p>based upon or arising out of any public offering of securities by an <b>insured organization</b>, <b>outside entity</b>, or <b>affiliate</b>, or the purchase or sale of any securities subsequent to such public offering; however, this exclusion will not apply to:</p> <ul style="list-style-type: none"> <li>a. the purchase or sale of securities (whether debt or equity) in a transaction or series of transactions that are exempt from registration under the Securities Act of 1933, as may be amended, provided the <b>named insured</b> provides <b>us</b> with written notice of any exempt public offering, including full particulars, as soon as possible, but in any event not later than 30 days after the effective date of the exempt public offering; or</li> <li>b. any <b>claim</b> made by any security holder of an <b>insured organization</b> for its failure to undertake or complete the initial public offering or sale of its securities.</li> </ul>
Security holder/member claims	12.	<p>brought by or on behalf of a security holder or member of an <b>insured organization</b>, either directly or derivatively, unless such <b>claim</b> is instigated and continued without any solicitation, assistance, active participation, or intervention of an <b>insured organization</b>, an <b>insured person</b>, or an <b>executive</b> of an <b>insured organization</b>.</p> <p>However, this exclusion will not apply to any <b>claim</b>:</p> <ul style="list-style-type: none"> <li>a. brought by a former <b>executive</b> of an <b>insured organization</b> who has not been a(n) <b>executive</b>, General Counsel, Risk Manager, or consultant of an <b>insured organization</b> for at least two years before the <b>claim</b> was first made; or</li> <li>b. brought in a jurisdiction outside of the United States, Canada, or any other common law country, including any territories or possessions of such countries, by an <b>executive</b> of an <b>insured organization</b> that was created and operates in the same country where the <b>claim</b> was made.</li> </ul>
Statutory violations	13.	<p>for any violation of the following laws:</p> <ul style="list-style-type: none"> <li>a. the Employee Retirement Income Security Act of 1974 ("ERISA");</li> <li>b. the Fair Labor Standards Act (except the Equal Pay Act);</li> <li>c. the National Labor Relations Act or Labor Management Relations Act;</li> <li>d. the Worker Adjustment and Retraining Notification Act;</li> <li>e. the Consolidated Omnibus Budget Reconciliation Act of 1985;</li> <li>f. the Occupational Safety and Health Act; or</li> <li>g. the Patient Protection and Affordable Care Act,</li> </ul>

all as may be amended, or any similar provisions of any federal, state, local, or foreign law or any rules or regulations promulgated under such laws; however, this exclusion will not apply to any **claim** resulting from **legal services** provided by an **employed lawyer** to an ERISA fiduciary.

Unjust enrichment

14. based upon or arising out of any actual or alleged profit or advantage gained by **you** if any final, non-appealable adjudication establishes that **you** were not legally entitled to such profit or advantage.

For purposes of determining the applicability of exclusions 5, 6, and 14, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, or Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

### VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

**Administrative proceeding claim**

means a judicial, administrative, bar association, or other proceeding against an **employed lawyer** concerning:

1. the eligibility or license of such **employed lawyer** to practice law; or
2. compliance with the Sarbanes-Oxley Act of 2002, as may be amended, or any similar provisions of any federal, state, local, or foreign law, or any rules or regulations promulgated under such Act or laws.

**Claim**

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written request for mediation or other alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. an administrative or regulatory proceeding against an **insured**, commenced by the service on the **insured** of a notice of the proceeding (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a written request to toll or waive a statute of limitations;
7. an **administrative proceeding claim**; or
8. a **securities claim**.

**Claim expenses**

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, adjustment, defense, or appeal of a **claim** against an **insured person**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to bond for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

<b>Employed lawyers wrongful act</b>	<p>means any actual or alleged:</p> <ol style="list-style-type: none"> <li>1. negligent act, error, omission, breach of duty, misstatement, or misleading statement; or</li> <li>2. <b>personal injury</b>,</li> </ol> <p>committed by an <b>insured person</b> in the performance of <b>legal services</b>.</p>
<b>Employee</b>	<p>means any past, present, or future employee of an <b>insured organization</b>, including any part-time, seasonal, or temporary employee, or any intern or volunteer, but only while acting in their capacity as such.</p>
<b>Executive</b>	<p>means any past, present, or future:</p> <ol style="list-style-type: none"> <li>1. duly elected or appointed director, officer, trustee, management committee member (of a duly constituted committee) or member of the Board of Managers or advisory board of an <b>insured organization</b> (or equivalent position);</li> <li>2. person in a duly elected or appointed position equivalent to a position listed in part 1 above of an entity which is organized and operated in a <b>foreign jurisdiction</b>; or</li> <li>3. General Counsel or Risk Manager (or equivalent position) of the <b>named insured</b> or any <b>subsidiary</b>,</li> </ol> <p>but only while acting in their capacity as such.</p>
<b>Indemnifiable loss</b>	<p>means <b>loss</b> for which an <b>insured organization</b> has indemnified or is permitted or required to indemnify an <b>insured person</b> pursuant to law, contract, or the <b>insured organization's</b> charter, by-laws, operating agreement, or similar document(s).</p>
<b>Insured organization</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Insured person</b>	<p>means:</p> <ol style="list-style-type: none"> <li>1. an <b>employed lawyer</b>;</li> <li>2. a <b>supporting employee</b>;</li> <li>3. an <b>agency attorney</b>; or</li> <li>4. an <b>independent contractor</b>.</li> </ol>
<b>Legal services</b>	<p>means any professional services that are generally performed by a licensed attorney and are rendered by:</p> <ol style="list-style-type: none"> <li>1. an <b>employed lawyer</b>, but solely in their capacity as an <b>employee</b>;</li> <li>2. an <b>employed lawyer</b>, but solely while a full-time, permanent <b>employee</b> (including <b>moonlighting services</b> and <i>pro bono</i> services); or</li> <li>3. any <b>insured person</b>, but solely while acting under the supervision and at the direction of an <b>employed lawyer</b>.</li> </ol> <p><b>Legal services</b> also includes notarizing, certifying, or acknowledging any signature rendered in connection with parts 1 through 3 above.</p>
<b>Loss</b>	<p>means the following amounts incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre- or post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>; and/or</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors</li> </ol>

coverage.

**Loss** does not include:

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. compensation, severance, salary, wages, fees, benefits, overhead, charges, or expenses of any **insured**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through d above.

### Moonlighting services

means professional services that are generally performed by an attorney and are rendered by an **employed lawyer** outside the scope of their employment with an **insured organization**; however, **moonlighting services** does not include services performed by an **employed lawyer** in their capacity as a(n) owner, principal, partner, or employee of an entity that is not an **insured organization**.

### Non-indemnifiable loss

means **loss** for which an **insured organization** has neither indemnified nor is permitted or required to indemnify an **insured person** pursuant to law, contract, or the **insured organization's** charter, by-laws, operating agreement, or similar document(s).

### Outside entity

means any:

1. nonprofit organization, other than a **subsidiary** or **affiliate**, of which an **executive** of an **insured organization** serves as a director, officer, trustee, trustee emeritus, or governor, but only if such service is at the specific request or direction of an **insured organization**; or
2. other entity listed as an **outside entity** by endorsement to this Coverage Part.

### Personal injury

means any:

1. false arrest, detention, or imprisonment;
2. malicious prosecution or abuse of process;
3. libel, slander, or other publication of defamatory or disparaging materials;
4. publication or utterance in violation of a person's right to privacy;
5. wrongful entry or eviction or other invasion of the right to private occupancy;
6. mental anguish or emotional distress, but only if resulting from, alleged in conjunction with, and based on the same allegations as a **claim** for parts 1 through 5 above.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, nuclear materials, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Retaliation

means retaliatory treatment alleged to be in response to:

1. the disclosure or threatened disclosure to a superior or a governmental agency of any act by an **insured** that is alleged to be a violation of any federal, state, local, or foreign law;

2. the actual or attempted exercise of any rights under laws related to employee rights, including workers' compensation laws, the Family and Medical Leave Act, and the Americans with Disabilities Act;
3. the filing of a claim under the Federal False Claims Act or any other federal, state, local, or foreign "whistle-blower" law;
4. assisting, cooperating, or testifying in a proceeding or investigation into whether an **insured** violated a federal, state, local, or foreign law; or
5. any strike or other labor action against an **insured organization** or an **outside entity**.

### Retention

means the amount stated as such under the Employed Lawyers Coverage Part section of the Declarations.

### Secondment attorney

means a licensed attorney who is not an **employee** of an **insured organization**, but is rather employed by an outside law firm and is temporarily assigned by an agreement between such law firm and an **insured organization** to perform **legal services** under the supervision or at the direction of an **insured organization**.

### Securities claim

means a **claim** made against an **insured person** based upon or arising out of **legal services** and:

1. alleging a violation of any federal, state, local, or foreign regulation, rule, statute, or common law regulating securities, including but not limited to the purchase or sale of or offer or solicitation of an offer to purchase or sell securities, brought by:
  - a. any person or entity with respect to the purchase or sale of, or offer or solicitation of an offer to purchase or sell, any securities of an **insured organization**; or
  - b. a security holder of an **insured organization** with respect to such security holder's interest in the **insured organization's** securities;
2. brought derivatively on behalf of an **insured organization** by one of its security holders; or
3. which is brought as a:
  - a. criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document); or
  - b. civil, administrative, or regulatory investigation of an **insured person** by the Securities and Exchange Commission, Department of Justice, or a similar domestic or foreign governmental authority, commenced by the service on the **insured person** of a subpoena or a Wells Notice, target letter, or formal order of investigation,

but only if brought in conjunction with and based on the same allegations as a **claim** for part 1 or 2 above.

### Third party violation

means any actual or alleged harassment (including sexual harassment) or discrimination (including but not limited to discrimination based on race, color, national origin, creed, religion, age, sex, gender, marital status, pregnancy, disability, HIV status, or sexual orientation or preference), or the violation of the civil rights of a person relating to such harassment or discrimination, when such acts are alleged to be committed against anyone other than an **insured person** or an applicant for employment with an **insured organization** or an **outside entity**, including but not limited to guests, students, members, patients, customers, vendors, and suppliers.

### You, your, or insured

means a **named insured**, **subsidiary**, **employed lawyer**, **supporting employee**, **agency attorney**, **independent contractor**, or **affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

### Worldwide coverage

- A. If a **claim** is made against **you** in a **foreign jurisdiction** resulting from an **employed lawyers**

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	<p><b>wrongful act</b> committed in such <b>foreign jurisdiction</b>, the provisions of the <b>foreign policy</b> most favorable to <b>you</b> will apply to that <b>claim</b>. Any provisions in the <b>foreign policy</b> will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to <b>you</b>.</p> <p>However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a <b>foreign jurisdiction</b>.</p>
Order of payments	<p>B. In the event <b>loss</b> resulting from any <b>claim</b> covered by this Coverage Part exceeds the remaining available Limit of Liability, <b>we</b> will:</p> <ol style="list-style-type: none"> <li>1. first pay <b>loss</b> covered under Insuring agreement A. Individual insurance; and</li> <li>2. then pay <b>loss</b> covered under Insuring agreement B. Insured organization reimbursement;</li> </ol> <p>however, for any <b>loss</b> resulting from a <b>claim</b> covered by this Coverage Part, including <b>loss</b> that exceeds the available Limit of Liability, <b>we</b> will, at the written request of the <b>named insured</b>:</p> <ol style="list-style-type: none"> <li>a. first pay <b>loss</b> covered under Insuring agreement A. Individual insurance; and</li> <li>b. then either pay or hold payment for <b>loss</b> covered under Insuring agreement B. Insured organization reimbursement.</li> </ol> <p>If <b>we</b> hold payment for <b>loss</b> under part b above, <b>we</b> will, at the written request of the <b>named insured</b>, release such amounts to an <b>insured organization</b> or <b>insured person</b> to pay <b>loss</b> covered under Insuring agreement A. Individual insurance.</p> <p><b>Your</b> bankruptcy or insolvency will not relieve <b>us</b> of any of <b>our</b> obligations to prioritize payments under this Coverage Part.</p>
Insured organization coverage	<p>C. <b>We</b> will have no obligation to pay any sums under this Coverage Part for any:</p> <ol style="list-style-type: none"> <li>1. <b>claim expenses</b> incurred by;</li> <li>2. settlements by or on behalf of;</li> <li>3. contractual obligations of; or</li> <li>4. judgments against,</li> </ol> <p>any entity, including any such sums based upon or arising out of (i) a <b>claim</b> made against an <b>insured organization</b>, (ii) any legal obligation to pay any amount that such <b>insured organization</b> has or may have to a claimant, or (iii) the acts or omissions of any <b>insured person</b>.</p> <p>Coverage is not available under Insuring agreement A. Individual insurance for any <b>insured organization</b>. An <b>insured organization</b> is covered only with respect to its indemnification of any <b>insured person</b> under Insuring agreement B. Insured organization reimbursement, for any <b>claim</b> against such <b>insured person</b>.</p>
Other insurance	<p>D. The following provision applies in addition to the provisions of the General Terms and Conditions, Section V. Other provisions affecting coverage, G. Other insurance:</p> <p>This Coverage Part is specifically excess of and will not contribute with any other valid and collectible management liability insurance available to an <b>insured person</b>, including any self-insurance program, and <b>we</b> will not have any duty to defend or obligation to pay <b>loss</b> or <b>claim expenses</b> until the applicable limits of any such insurance have been exhausted.</p>



### I. Insuring agreement

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **fiduciary wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

#### Civil fines and penalties sublimit

- A. We will pay up to the limit stated in the Declarations, in the aggregate, for the following civil fines or penalties assessed against **you** in connection with a covered **claim** brought under any of the following laws, all as may be amended, including any rules or regulations promulgated under such laws:
1. Section 502(c) of the Employee Retirement Income Security Act of 1974;
  2. the English Pension Scheme Act 1993, the English Pensions Act 1995, or the Pensions Act 2004, if imposed by the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Pensions Regulator, but only if the funds or assets of the subject **plan** are not used to fund, pay, or reimburse the premium for this Coverage Part;
  3. the Pensions Act, 1990, if imposed by the Republic of Ireland's Pensions Authority or Pensions Ombudsman;
  4. the Patient Protection and Affordable Care Act;
  5. the Pension Protection Act of 2006; or
  6. 26 U.S.C. § 4975 (Tax on prohibited transactions),
- provided the **claim** is first made against **you** during the **policy period** and it results from a **fiduciary wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection A, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Extradition costs

- B. We will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with **our** prior consent to oppose, challenge, resist, or defend an **extradition action** **you** first receive notice of during the **policy period**.
- You** must pay the **retention** before **we** will be obligated to make any payment under this subsection B, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### HIPAA fines/penalties sublimit

- C. We will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against **you** in connection with a **claim** for any actual or alleged violation of the Health Insurance Portability and Accountability Act (HIPAA) or Health Information Technology for Economic and Clinical Health Act (HITECH), both as may be amended, including any rules or regulations promulgated under such acts, provided the **claim** is first made against **you** during the **policy period** and it results from a **fiduciary wrongful act**.
- No **retention** will apply to any payment **we** make under this subsection C, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Voluntary compliance loss sublimit

- D. We will pay up to the limit stated in the Declarations, in the aggregate, for all **voluntary compliance loss** incurred by **you** pursuant to any **voluntary settlement program**, provided **you** give **us** written notice during the **policy period** of **your** intent to enter into a **voluntary settlement program** prior to incurring any **voluntary compliance loss**.
- No **retention** will apply to any payment **we** make under this subsection D, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.



### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **plan**, **insured person**, **pension oversight committee**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or
2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **fiduciary wrongful acts** occurring during the course of such **management control** or sponsorship.

#### Plan

means any:

1. plan, fund, trust, or program (including any Employee Benefit Plan, Pension Benefit Plan, Welfare Plan, and IRA-Based Plan, as each is defined in **ERISA**), established anywhere in the world before or as of the inception of the **policy period**, which was, is, or will be sponsored solely by an **insured organization**, or sponsored jointly by an **insured organization** and a labor organization, solely for the benefit of the employees, directors, and/or officers of such **insured organization**;
2. other employee benefit plan or program not subject to **ERISA** which is sponsored solely by an **insured organization** for the benefit of the employees, directors, and/or officers of such **insured organization**, including any fringe benefit or excess benefit plan;
3. other plan or program not described in parts 1 or 2 above while it is being actively developed, formed, or proposed by an **insured organization** prior to the formal creation of such plan or program;
4. **new plan**; or
5. other plan, fund, or program not described in parts 1, 2, or 3 above which is specifically listed as a **plan** by endorsement to this policy,

but only for **fiduciary wrongful acts** occurring while under the sponsorship of an **insured organization**.

**Plan** also includes unemployment insurance, Social Security, and disability benefits, but only with respect to a **fiduciary wrongful act** in connection with the **administration** of such government-mandated programs.

**Plan** does not include any employee stock ownership plan or multiemployer plan.

#### Insured person

means any:

1. past, present, or future director, officer, trustee, governor, general partner, management committee member (of a duly constituted committee), member of the Board of Managers or advisory board (or equivalent position), or employee of an **insured organization**, or of a **plan**, if applicable;
2. past, present, or future duly elected or appointed member of a **pension oversight committee**;
3. person described in part 1 or 2 above acting in their capacity as a fiduciary, administrator, or trustee of a **plan**; or
4. foreign equivalent of any person described in part 1, 2, or 3 above,

but only while acting in their capacity as such.

#### Pension oversight committee

means any committee or subcommittee duly formed by a **trustee insured organization** and duly appointed to act as a trustee of the **plan** or acting as a constructive trustee of the **plan** with responsibility for pension or **benefits** oversight.

#### Affiliate

means any entity listed as such by endorsement to this policy:

### IV. Defense and settlement of claims

#### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** will have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to the final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

#### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

#### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, agree to submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

#### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk

## Fiduciary Coverage Part

Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

- B. **You** have the option of notifying **us** of a **potential claim** that may lead to a covered **claim** against **you**, provided **you** first become aware of such **potential claim** during the **policy period**.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** **we** may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

- C. **Our** obligation to pay **loss** under this Coverage Part is in excess of any applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or, in the event of the **insured organization's** bankruptcy or **insolvency**, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

Exclusions applicable to  
the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement**:

Bodily injury/property damage

1. for any:

a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or

b. damage to, loss of use, or destruction of any tangible property,

except that **we** will pay **claim expenses** incurred in the defense of an otherwise covered **claim** for breach of any fiduciary duties imposed by **ERISA** with respect to any **plan**.

Part a of this exclusion will not apply to a **claim** alleging **your** negligent or improper selection of a managed care organization or managed care services provider, or for the improper delay or denial of **benefits** by such managed care organization or managed care services provider.

Discrimination

2. for any actual or alleged discrimination in violation of any law other than **ERISA**.

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Excluded plans	3. based upon or arising out of any actual or alleged act, error, or omission of an <b>insured</b> in their capacity as a fiduciary or administrator of any plan, fund, or trust other than a <b>plan</b> , or brought against an <b>insured</b> by reason of their status as a fiduciary or administrator of such other plan, fund, or trust.
Fraudulent/criminal acts	4. based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Pollution/environmental	<p>5. a. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; or</p> <p>b. for financial loss to any <b>insured organization, plan</b>, or creditors based upon or arising out of any matter in part a above.</p> <p>However, this exclusion will not apply to:</p> <p>i. <b>loss</b>, other than expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>, resulting from a <b>claim</b> alleging damage to a <b>plan</b> brought against an <b>insured person</b> who is not being indemnified by an <b>insured organization</b>; or</p> <p>ii. a <b>claim</b> by or on behalf of a beneficiary of or participant in any <b>plan</b> alleging diminution in value of any securities owned by the <b>plan</b> in any entity other than an <b>insured organization</b>, if such diminution in value is alleged to be the result of <b>pollutants</b>.</p>
Prior notice/knowledge	<p>6. based upon or arising out of any <b>fiduciary wrongful act</b> that:</p> <p>a. was the subject of any notice given under any other policy of which this policy is a renewal or replacement, or which it succeeds in time; or</p> <p>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice on or prior to the <b>continuity date</b>.</p> <p>This exclusion also applies to any <b>related claims</b> arising out of the same <b>fiduciary wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a or b above.</p>
Unjust enrichment	7. based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.

For purposes of determining the applicability of exclusions 4 or 7, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Administration

means the following duties or activities performed in connection with any **plan**:

1. counseling employees, participants, or beneficiaries;
2. providing interpretations;
3. handling records;
4. enrolling, terminating, or canceling employees, participants, or beneficiaries under a **plan**; or

5. complying with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) or Health Information Technology for Economic and Clinical Health Act (HITECH), both as may be amended, including any rules or regulations promulgated under such acts.

### Benefits

means any obligation under a **plan** to a participant or beneficiary that is a payment of money or property, or the grant of a privilege, right, option, or perquisite.

### Claim

means:

1. a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written demand for mediation or alternative dispute resolution proceeding, commenced by the **insured's** receipt of such demand or request;
2. a civil proceeding against an **insured**, commenced by the service on the **insured** of a complaint (or similar document), or an appeal of any such proceeding;
3. a criminal proceeding against an **insured**, commenced by the service on the **insured** of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;
4. a formal agency, regulatory, or adjudicative proceeding against an **insured**, commenced by the service on the **insured** or the filing of a notice of charges or entry of a formal investigative order (or similar document), or an appeal of any such proceeding;
5. an arbitration proceeding against an **insured**, commenced by the service on the **insured** of a demand for arbitration (or similar document), or an appeal of any such proceeding;
6. a written notice of a commencement of a fact-finding investigation by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States, including but not limited to the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Pensions Regulator pursuant to the English Pension Scheme Act 1993 or the English Pensions Act 1995, or the Republic of Ireland's Pensions Authority or Pensions Ombudsman pursuant to the Pensions Act, 1990, or any rules or regulations promulgated under such acts;
7. a written request to toll or waive a statute of limitations;
8. an **extradition action**, with respect to Coverage enhancement B. Extradition costs; or
9. an **internal appeal**.

### Claim expenses

means the following sums incurred after **you** have reported a **claim** to **us** and with **our** consent:

1. all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a **claim**; and
2. premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but **we** will have no obligation to apply for or furnish any such bonds.

**Claim expenses** do not include salaries, wages, benefits, or compensation of any **insured person**.

### Consulting fees

means fees charged by a third party actuary, benefits consultant, or accountant resulting solely from the correction of an actual or potential breach of **your** fiduciary duties under **ERISA** with respect to any **plan**.

**Consulting fees** will not include any fees, costs, or expenses associated with:

1. a routine or regularly scheduled **plan** audit; or
2. an audit or review for the purpose of identifying or finding the actual or potential breach of **your** fiduciary duties or assessing the extent of **loss** resulting from such breach of fiduciary duties.

### Coverage enhancements

means all **claims** and other matters covered under Section II. Coverage enhancements of this Coverage Part.

<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>fiduciary wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>ERISA</b>	means the Employee Retirement Income Security Act of 1974, the English Pension Scheme Act 1993, the English Pensions Act 1995, the Republic of Ireland's Pension Act, 1990, all as may be amended, or any similar provisions of any federal, state, local, or foreign common or statutory law, or any rules or regulations promulgated under such laws.
<b>Fiduciary wrongful act</b>	means: <ol style="list-style-type: none"> <li>1. a violation of any of the responsibilities, obligations, or duties imposed upon fiduciaries by <b>ERISA</b> with respect to a <b>plan</b>;</li> <li>2. an unintentional violation of any of the responsibilities, obligations, or duties imposed upon fiduciaries by the Patient Protection and Affordable Care Act, as may be amended, and any rules or regulations promulgated under such act, with respect to a <b>plan</b>;</li> <li>3. any act, error, or omission in an <b>insured's</b> capacity as a settlor of a <b>plan</b>;</li> <li>4. any act, error, or omission solely in the <b>administration</b> of a <b>plan</b>;</li> <li>5. any matter claimed against an <b>insured</b> solely by reason of their status as a fiduciary of a <b>plan</b>; or</li> <li>6. solely with respect to a multiemployer plan which is operated for the benefit of employees of an <b>insured organization</b> and administered by a third party, any act, error, or omission by an <b>insured</b> while assisting the facilitation of such plan's administration, including the transmission of any data relating to employees of such <b>insured organization</b> who are participants in such multiemployer plan.</li> </ol>
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Internal appeal</b>	means an appeal of an adverse <b>benefits</b> determination initiated by an <b>insured person</b> pursuant to the U.S. Department of Labor's claim procedure regulation, 29 C.F.R. 2560.503-1(h), or any similar claim procedures under applicable state or federal law.
<b>Loss</b>	means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent: <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre-judgment and post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol> <p><b>Loss</b> does not include:</p>



## Fiduciary Coverage Part

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay:
  - i. civil penalties of up to 5% imposed under Section 502(i), or up to 20% imposed under Section 502(l), of the Employee Retirement Income Security Act of 1974, as may be amended;
  - ii. civil fines and penalties covered under Section II. Coverage enhancements A. Civil fines and penalties sublimit;
  - iii. civil fines and penalties if they are part of a covered **claim** under Section II. Coverage enhancements, C. HIPAA fines/penalties sublimit; or
  - iv. **voluntary compliance loss**;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. **benefits** due under the terms of a **plan**, unless recovery for such **benefits** arises out of a **fiduciary wrongful act** and is payable as the personal obligation of an **insured person**; however, **loss** will include a monetary award in, or fund for settling, a **claim** against any **insured** to the extent it alleges a reduction in the value of **plan** assets or a reduction in the value of the actual accounts of **plan** participants by reason of a change in value of the investments held by that **plan**, regardless of whether the amounts sought in such **claim** have been characterized as, or held by a court to be, **benefits**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above.

### New plan

means any plan, fund, trust, or program, whether subject to **ERISA** or not, that is created, formed, or acquired during the policy period stated in Item 2 of the Declarations as a result of an **insured organization's** acquisition of a **subsidiary**.

This Coverage Part will apply to a **new plan** only with respect to a **fiduciary wrongful act** occurring after the date of its creation, formation, or acquisition.

**New plan** does not include any multiemployer plan, cash balance plan, or employee stock ownership plan.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Remediation expenses

means the reasonable and necessary fees, costs, and expenses incurred by **you** with **our** prior consent to correct an actual or potential breach of **your** fiduciary duties under **ERISA** with respect to any **plan**. However, **remediation expenses** does not include any fees, costs, or expenses associated with finding or assessing such actual or potential breach of fiduciary duty, or any compensation of **insured persons** or employees of an **insured organization**.

### Retention

means the amount stated as such under the Fiduciary Coverage Part section of the Declarations.

### Trustee insured organization

means a corporate trustee company that is:

1. established by an **insured organization** formed and operating in a **foreign jurisdiction**, or any predecessor of such **insured organization**;
2. duly appointed to act as a trustee of a **plan** in a **foreign jurisdiction**; and
3. sponsored solely by such **insured organization**.



**Voluntary compliance loss** means any:

1. **remediation expenses**;
2. **consulting fees**; or
3. other amounts,

paid by an **insured** with **our** prior consent to a governmental authority pursuant to a **voluntary settlement program** for the actual or alleged inadvertent non-compliance by a **plan** with any statute, rule, or regulation.

**Voluntary compliance loss** does not include any:

1. costs to correct the non-compliance, other than **remediation expenses**, or any other charges, expenses, taxes, or damages; or
2. fees, fines, penalties, or sanctions relating to a **plan** which, as of the inception of this policy or the inception of the first policy in an uninterrupted series of policies issued by **us** to **you** of which this policy is a renewal or replacement, any **insured** had knowledge of the actual or alleged inadvertent non-compliance.

**Voluntary settlement program**

means any voluntary compliance resolution program or similar voluntary settlement program administered by the U.S. Internal Revenue Service, the U.S. Department of Labor, or the Pension Benefit Guaranty Corporation, including but not limited to the Premium Compliance Evaluation Program, the Participant Notice Voluntary Correction Program, the Employee Plans Compliance Resolution System, the Audit Closing Agreement Program, the Voluntary Compliance Resolution Program, the Walk-in Closing Agreement Program, the Administrative Policy Regarding Self-Correction, the Tax Sheltered Annuity Voluntary Correction Program, the Delinquent Filer Voluntary Compliance Program, the Voluntary Fiduciary Correction Program, or any similar program administered by a governmental authority located outside the United States.

**You, your, or insured**

means a **named insured, subsidiary, plan, insured person, pension oversight committee, or affiliate**, as defined in Section III. Who is an insured.

## VIII. Other provisions affecting coverage

Worldwide coverage

- A. If a **claim** is made against **you** in a **foreign jurisdiction** resulting from a **fiduciary wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

Order of payments

- B. In the event **loss** resulting from any **claim** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** on behalf of any **insured person**;
  2. then pay **loss** on behalf of any **plan**; and
  3. then pay **loss** on behalf of any **insured organization**.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

Plan termination

- C. If, before or during the **policy period**, an **insured organization** terminates, sells, or runs off a **plan**, coverage with respect to such **plan** under this Coverage Part will continue until the end of the **policy period**. However, this policy will cover only **claims** for **fiduciary wrongful acts** that took place prior to the date the **plan** was sold or run off, or, in the case of a terminated **plan**, prior to the date of the last asset distribution of such **plan**.



### I. Insuring agreement

We will pay up to the **coverage part limit** for **loss** in excess of any applicable **retention** resulting from covered **claims** against **you** for any actual or alleged **fiduciary wrongful act**, provided the **claim** is first made against **you** during the **policy period** and is reported to **us** in accordance with Section V. Your obligations.

### II. Coverage enhancements

We will also make the following payments, provided **you** report them to **us** in accordance with Section V. Your obligations:

#### Civil fines and penalties sublimit

- A. We will pay up to the limit stated in the Declarations, in the aggregate, for the following civil fines or penalties assessed against **you** in connection with a covered **claim** brought under any of the following laws, all as may be amended, including any rules or regulations promulgated under such laws:
1. Section 502(c) of the Employee Retirement Income Security Act of 1974;
  2. the English Pension Scheme Act 1993, the English Pensions Act 1995, or the Pensions Act 2004, if imposed by the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Pensions Regulator, but only if the funds or assets of the subject **plan** are not used to fund, pay, or reimburse the premium for this Coverage Part;
  3. the Pensions Act, 1990, if imposed by the Republic of Ireland's Pensions Authority or Pensions Ombudsman;
  4. the Patient Protection and Affordable Care Act;
  5. the Pension Protection Act of 2006; or
  6. 26 U.S.C. § 4975 (Tax on prohibited transactions),
- provided the **claim** is first made against **you** during the **policy period** and it results from a **fiduciary wrongful act**.

**You** must pay the **retention** before **we** will be obligated to make any payment under this subsection A, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Extradition costs

- B. We will pay up to the limit stated in the Declarations, in the aggregate, for reasonable and necessary fees, costs, and expenses incurred with **our** prior consent to oppose, challenge, resist, or defend an **extradition action** **you** first receive notice of during the **policy period**.
- You** must pay the **retention** before **we** will be obligated to make any payment under this subsection B, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### HIPAA fines/penalties sublimit

- C. We will pay up to the limit stated in the Declarations, in the aggregate, for civil fines or penalties assessed against **you** in connection with a **claim** for any actual or alleged violation of the Health Insurance Portability and Accountability Act (HIPAA) or Health Information Technology for Economic and Clinical Health Act (HITECH), both as may be amended, including any rules or regulations promulgated under such acts, provided the **claim** is first made against **you** during the **policy period** and it results from a **fiduciary wrongful act**.

No **retention** will apply to any payment **we** make under this subsection C, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

#### Voluntary compliance loss sublimit

- D. We will pay up to the limit stated in the Declarations, in the aggregate, for all **voluntary compliance loss** incurred by **you** pursuant to any **voluntary settlement program**, provided **you** give **us** written notice during the **policy period** of **your** intent to enter into a **voluntary settlement program** prior to incurring any **voluntary compliance loss**.

No **retention** will apply to any payment **we** make under this subsection D, and any amounts **we** pay will be a part of, and not in addition to, the **coverage part limit**.

### III. Who is an insured

For purposes of this Coverage Part, **you**, **your**, or **insured** means a **named insured**, **subsidiary**, **plan**, **insured person**, **pension oversight committee**, or **affiliate**, as defined below:

#### Named insured

means the entity identified in Item 1 of the Declarations.

#### Subsidiary

means any:

1. for-profit entity whose securities are not publicly traded of which the **named insured** has **management control**, either directly or indirectly through one or more other **subsidiaries**, before or during the **policy period**; or

2. nonprofit entity sponsored exclusively by an **insured organization**,

but only for **fiduciary wrongful acts** occurring during the course of such **management control** or sponsorship.

#### Plan

means any:

1. plan, fund, trust, or program (including any Employee Benefit Plan, Pension Benefit Plan, Welfare Plan, and IRA-Based Plan, as each is defined in **ERISA**), established anywhere in the world before or as of the inception of the **policy period**, which was, is, or will be sponsored solely by an **insured organization**, or sponsored jointly by an **insured organization** and a labor organization, solely for the benefit of the employees, directors, and/or officers of such **insured organization**;
2. other employee benefit plan or program not subject to **ERISA** which is sponsored solely by an **insured organization** for the benefit of the employees, directors, and/or officers of such **insured organization**, including any fringe benefit or excess benefit plan;
3. other plan or program not described in parts 1 or 2 above while it is being actively developed, formed, or proposed by an **insured organization** prior to the formal creation of such plan or program;
4. **new plan**; or
5. other plan, fund, or program not described in parts 1, 2, or 3 above which is specifically listed as a **plan** by endorsement to this policy,

but only for **fiduciary wrongful acts** occurring while under the sponsorship of an **insured organization**.

**Plan** also includes unemployment insurance, Social Security, and disability benefits, but only with respect to a **fiduciary wrongful act** in connection with the **administration** of such government-mandated programs.

**Plan** does not include any employee stock ownership plan or multiemployer plan.

#### Insured person

means any:

1. past, present, or future director, officer, trustee, governor, general partner, management committee member (of a duly constituted committee), member of the Board of Managers or advisory board (or equivalent position), or employee of an **insured organization**, or of a **plan**, if applicable;
2. past, present, or future duly elected or appointed member of a **pension oversight committee**;
3. person described in part 1 or 2 above acting in their capacity as a fiduciary, administrator, or trustee of a **plan**; or
4. foreign equivalent of any person described in part 1, 2, or 3 above,

but only while acting in their capacity as such.

#### Pension oversight committee

means any committee or subcommittee duly formed by a **trustee insured organization** and duly appointed to act as a trustee of the **plan** or acting as a constructive trustee of the **plan** with responsibility for pension or **benefits** oversight.

#### Affiliate

means any entity listed as such by endorsement to this policy:

### IV. Defense and settlement of claims

#### Defense

- A. **We** have the right and duty to defend any covered **claim** or **coverage enhancement**, even if such **claim** or **coverage enhancement** is groundless, false, or fraudulent.

**We** will have the right to select and appoint counsel to defend **you** against any **claim** or **coverage enhancement**. **We** may appoint different defense counsel to represent different **insureds**, but only if required due to an actual conflict of interest.

At **your** written request, **we** agree to advance covered **claim expenses** in excess of the applicable **retention** on **your** behalf prior to the final disposition of a **claim** or **coverage enhancement**. **We** will make commercially reasonable best efforts to issue payment of covered **claim expenses** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. In the event it is later determined **you** are not entitled to payment of such **claim expenses**, **you** agree to repay **our** advanced payments severally, according to **your** respective interests. Additionally, **we** will not advance or otherwise pay any **claim expenses** or other **loss** incurred prior to when any **claim** or **coverage enhancement** was first reported to **us**.

#### Settlement

- B. **You** and **we** agree not to enter into any settlement agreements without the other's prior written consent, such consent not to be withheld unreasonably. If **you** withhold consent to a settlement recommended by **us** and acceptable to the party who made the **claim**, the most **we** will pay for that **claim** is the sum of:

1. the amount of **our** recommended settlement;
2. **claim expenses** incurred up to the date of **our** recommendation;
3. 90% of all **claim expenses** incurred after **our** recommendation; and
4. 90% of all other **loss** in excess of the settlement amount recommended by **us**.

#### Allocation

- C. The following allocation provisions will apply to all **claims** and **coverage enhancements**:
1. If there is both covered **loss** and uncovered loss in connection with the same **claim** or **coverage enhancement**, **we** will make payment as follows:
    - a. 100% of **claim expenses** incurred in the defense of covered persons or entities will be considered covered **loss**; and
    - b. **we** will allocate all remaining amounts on a pro rata basis between covered **loss** and non-covered loss based on **our** and **your** relative exposures.
  2. **We** and **you** agree to use commercially reasonable best efforts to agree on an allocation of **loss** other than **claim expenses** under part 1.a. above. If **you** and **we** cannot agree on an allocation, no presumption as to allocation will exist in any proceeding to determine such allocation.

In the event of a dispute over allocation, **we** and **you** agree to first submit the dispute to non-binding mediation. If the mediation is unsuccessful, **we** will, at the **named insured's** request, agree to submit the dispute to binding arbitration after a 60-day waiting period following the failed mediation. The rules of the American Arbitration Association will apply to such arbitration, except with respect to the selection of the arbitration panel, which will consist of one arbitrator selected by **you**, one arbitrator selected by **us**, and a third independent arbitrator selected by the first two arbitrators.

### V. Your obligations

#### Notifying us of claims and coverage enhancements

- A. **You** must give written notice to **us** of any **claim** or **coverage enhancement** as soon as possible once such **claim** or **coverage enhancement** is first known to the **insured organization's** Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Risk

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Manager, or General Counsel (or equivalent position), but in any event no later than 180 days after the end of the **policy period**.

All such notifications must be in writing, include a copy of the **claim** or **coverage enhancement**, and must be submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Notifying us of potential claims

B. **You** have the option of notifying **us** of **a potential claim** that may lead to a covered **claim** against **you**, provided you first become aware of such potential claim during the policy period.

In order to do so, **you** must give written notice to **us** as soon as possible and within the **policy period**, and the notice must identify the details of the **potential claim**, including identifying the potential claimant(s), the likely basis for liability, and any additional information about the **potential claim** we may reasonably request.

The benefit to **you** of notifying **us** of a **potential claim** is that if an actual **claim** arises from the same circumstances as the properly notified **potential claim** and results in a covered **claim**, then **we** will treat that **claim** as though it had been notified on the date **you** properly notified **us** of the **potential claim**, even if the **claim** is first made against **you** after the **policy period** has expired.

All **potential claim** notifications must be in writing and submitted to **us** via the designated email address or mailing address stated in Item 6 of the Declarations.

Retention

C. **Our** obligation to pay **loss** under this Coverage Part is in excess of any applicable **retention**, which **you** must pay before **we** will be obligated to make any payment. **You** will remain responsible for the **retention**, which **you** agree not to insure. A single **retention** will apply to **loss** resulting from all **related claims**.

If an **insured organization** is unable to pay the **retention** due to its bankruptcy or **insolvency**, **we** will advance such payment and make commercially reasonable best efforts to issue payment of covered **loss** within the applicable **retention** within 60 days after **we** receive all documentation necessary to enable **us** to make such payment. However, **we** will have the right to recover the amount of such advanced **loss** from the **insured organization** or, in the event of the **insured organization's** bankruptcy or **insolvency**, from the debtor-in-possession (or foreign equivalent). Such right of recovery will be independent from **our** subrogation rights under this Coverage Part or any other rights **we** may have under applicable law.

## VI. Exclusions – What is not covered

Exclusions applicable to  
the entire Coverage Part

**We** will have no obligation to pay any sums under this Coverage Part for any **claim** or **coverage enhancement**:

Bodily injury/property damage

1. for any:

a. bodily injury, sickness, disease, death, emotional distress, or mental anguish of any person; or

b. damage to, loss of use, or destruction of any tangible property,

except that **we** will pay **claim expenses** incurred in the defense of an otherwise covered **claim** for breach of any fiduciary duties imposed by **ERISA** with respect to any **plan**.

Part a of this exclusion will not apply to a **claim** alleging **your** negligent or improper selection of a managed care organization or managed care services provider, or for the improper delay or denial of **benefits** by such managed care organization or managed care services provider.

Discrimination

2. for any actual or alleged discrimination in violation of any law other than **ERISA**.

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Excluded plans	3.	based upon or arising out of any actual or alleged act, error, or omission of an <b>insured</b> in their capacity as a fiduciary or administrator of any plan, fund, or trust other than a <b>plan</b> , or brought against an <b>insured</b> by reason of their status as a fiduciary or administrator of such other plan, fund, or trust.
Fraudulent/criminal acts	4.	based upon or arising out of any intentionally fraudulent or criminal acts or omissions or willful violation of law if there is a final, non-appealable adjudication establishing such conduct was committed in the <b>claim</b> or <b>coverage enhancement</b> at issue.
Pollution/environmental	5.	<p>a. based upon or arising out of any actual, alleged, or threatened discharge, dispersal, release, or escape of <b>pollutants</b>, including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize <b>pollutants</b>; or</p> <p>b. for financial loss to any <b>insured organization</b>, <b>plan</b>, or creditors based upon or arising out of any matter in part a above.</p> <p>However, this exclusion will not apply to:</p> <p>i. <b>loss</b>, other than expenses (including legal and professional fees) incurred to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or assess the effects of <b>pollutants</b>, resulting from a <b>claim</b> alleging damage to a <b>plan</b> brought against an <b>insured person</b> who is not being indemnified by an <b>insured organization</b>; or</p> <p>ii. a <b>claim</b> by or on behalf of a beneficiary of or participant in any <b>plan</b> alleging diminution in value of any securities owned by the <b>plan</b> in any entity other than an <b>insured organization</b>, if such diminution in value is alleged to be the result of <b>pollutants</b>.</p>
Prior notice/knowledge	6.	<p>based upon or arising out of any <b>fiduciary wrongful act</b> that:</p> <p>a. was the subject of any notice given under any other policy of which this policy is a renewal or replacement, or which it succeeds in time; or</p> <p>b. was the subject of, or is related to, any prior or pending litigation, <b>claim</b>, written demand, arbitration, criminal proceeding, or administrative or regulatory proceeding or investigation that was filed or commenced against <b>you</b> and of which <b>you</b> had notice on or prior to the <b>continuity date</b>.</p> <p>This exclusion also applies to any <b>related claims</b> arising out of the same <b>fiduciary wrongful acts</b> or <b>related wrongful acts</b> related to the matters in parts a or b above.</p>
Unjust enrichment	7.	based upon or arising out of any profit or advantage gained by <b>you</b> if any final, non-appealable adjudication establishes that <b>you</b> were not legally entitled to such profit or advantage.

For purposes of determining the applicability of exclusions 4 or 7, **we** will not impute the acts, errors, or omissions of one **insured person** to any other **insured person** who did not commit or have knowledge of the acts, errors, or omissions at issue. These exclusions will apply to an **insured organization** only if the acts, errors, or omissions were committed or known by any past, present, or future Chief Executive Officer, Chief Financial Officer, or Risk Manager (or equivalent positions) of such **insured organization**.

## VII. Definitions

The following definitions apply to this Coverage Part. Additional definitions are contained in Section III. Who is an insured, and in the General Terms and Conditions, Section VI. Definitions applicable to all Coverage Parts. If a term is defined in this Coverage Part differently than defined anywhere else in this policy, the definitions in this Coverage Part will apply to the coverage afforded under this Coverage Part.

### Administration

means the following duties or activities performed in connection with any **plan**:

1. counseling employees, participants, or beneficiaries;
2. providing interpretations;
3. handling records;
4. enrolling, terminating, or canceling employees, participants, or beneficiaries under a **plan**; or



	<ol style="list-style-type: none"> <li>complying with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) or Health Information Technology for Economic and Clinical Health Act (HITECH), both as may be amended, including any rules or regulations promulgated under such acts.</li> </ol>
<b>Benefits</b>	means any obligation under a <b>plan</b> to a participant or beneficiary that is a payment of money or property, or the grant of a privilege, right, option, or perquisite.
<b>Claim</b>	<p>means:</p> <ol style="list-style-type: none"> <li>a written demand for monetary, non-monetary, equitable, or injunctive relief, including any written demand for mediation or alternative dispute resolution proceeding, commenced by the <b>insured's</b> receipt of such demand or request;</li> <li>a civil proceeding against an <b>insured</b>, commenced by the service on the <b>insured</b> of a complaint (or similar document), or an appeal of any such proceeding;</li> <li>a criminal proceeding against an <b>insured</b>, commenced by the service on the <b>insured</b> of a return of an indictment, information, or a notice of charges (or similar document), or an appeal of any such proceeding;</li> <li>a formal agency, regulatory, or adjudicative proceeding against an <b>insured</b>, commenced by the service on the <b>insured</b> or the filing of a notice of charges or entry of a formal investigative order (or similar document), or an appeal of any such proceeding;</li> <li>an arbitration proceeding against an <b>insured</b>, commenced by the service on the <b>insured</b> of a demand for arbitration (or similar document), or an appeal of any such proceeding;</li> <li>a written notice of a commencement of a fact-finding investigation by the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation, or any similar governmental authority located outside the United States, including but not limited to the Pensions Ombudsman appointed by the United Kingdom Secretary of State for Work and Pensions or by the United Kingdom Pensions Regulator pursuant to the English Pension Scheme Act 1993 or the English Pensions Act 1995, or the Republic of Ireland's Pensions Authority or Pensions Ombudsman pursuant to the Pensions Act, 1990, or any rules or regulations promulgated under such acts;</li> <li>a written request to toll or waive a statute of limitations;</li> <li>an <b>extradition action</b>, with respect to Coverage enhancement B. Extradition costs; or</li> <li>an <b>internal appeal</b>.</li> </ol>
<b>Claim expenses</b>	<p>means the following sums incurred after <b>you</b> have reported a <b>claim</b> to <b>us</b> and with <b>our</b> consent:</p> <ol style="list-style-type: none"> <li>all reasonable and necessary fees, costs, and expenses (including the fees of attorneys and experts and e-discovery costs) incurred in the investigation, defense, or appeal of a <b>claim</b>; and</li> <li>premiums for any appeal bond, attachment bond, or similar bond arising out of a covered judgment, but <b>we</b> will have no obligation to apply for or furnish any such bonds.</li> </ol> <p><b>Claim expenses</b> do not include salaries, wages, benefits, or compensation of any <b>insured person</b>.</p>
<b>Consulting fees</b>	<p>means fees charged by a third party actuary, benefits consultant, or accountant resulting solely from the correction of an actual or potential breach of <b>your</b> fiduciary duties under <b>ERISA</b> with respect to any <b>plan</b>.</p> <p><b>Consulting fees</b> will not include any fees, costs, or expenses associated with:</p> <ol style="list-style-type: none"> <li>a routine or regularly scheduled <b>plan</b> audit; or</li> <li>an audit or review for the purpose of identifying or finding the actual or potential breach of <b>your</b> fiduciary duties or assessing the extent of <b>loss</b> resulting from such breach of fiduciary duties.</li> </ol>
<b>Coverage enhancements</b>	means all <b>claims</b> and other matters covered under Section II. Coverage enhancements of this Coverage Part.

<b>Extradition action</b>	means any official request from one nation or state to another for the surrender of an <b>insured person</b> to face criminal charges for <b>fiduciary wrongful acts</b> committed by such <b>insured person</b> , and includes any appeal of an order or grant resulting from an <b>extradition action</b> .
<b>ERISA</b>	means the Employee Retirement Income Security Act of 1974, the English Pension Scheme Act 1993, the English Pensions Act 1995, the Republic of Ireland's Pension Act, 1990, all as may be amended, or any similar provisions of any federal, state, local, or foreign common or statutory law, or any rules or regulations promulgated under such laws.
<b>Fiduciary wrongful act</b>	means: <ol style="list-style-type: none"> <li>1. a violation of any of the responsibilities, obligations, or duties imposed upon fiduciaries by <b>ERISA</b> with respect to a <b>plan</b>;</li> <li>2. an unintentional violation of any of the responsibilities, obligations, or duties imposed upon fiduciaries by the Patient Protection and Affordable Care Act, as may be amended, and any rules or regulations promulgated under such act, with respect to a <b>plan</b>;</li> <li>3. any act, error, or omission in an <b>insured's</b> capacity as a settlor of a <b>plan</b>;</li> <li>4. any act, error, or omission solely in the <b>administration</b> of a <b>plan</b>;</li> <li>5. any matter claimed against an <b>insured</b> solely by reason of their status as a fiduciary of a <b>plan</b>; or</li> <li>6. solely with respect to a multiemployer plan which is operated for the benefit of employees of an <b>insured organization</b> and administered by a third party, any act, error, or omission by an <b>insured</b> while assisting the facilitation of such plan's administration, including the transmission of any data relating to employees of such <b>insured organization</b> who are participants in such multiemployer plan.</li> </ol>
<b>Foreign policy</b>	means any standard management liability insurance policy that provides coverage substantially similar to the coverage provided by this Coverage Part, issued by <b>us</b> or one of <b>our</b> affiliates, which has been approved for sale in a <b>foreign jurisdiction</b> . If more than one such policy exists, <b>foreign policy</b> means the standard basic policy form <b>we</b> or one of <b>our</b> affiliates typically offer for sale in that <b>foreign jurisdiction</b> for comparable risks. <b>Foreign policy</b> does not include any partnership management, pension trust, or professional liability coverage.
<b>Insured organization</b>	means: <ol style="list-style-type: none"> <li>1. the <b>named insured</b>;</li> <li>2. any <b>subsidiary</b>; or</li> <li>3. any <b>affiliate</b>.</li> </ol>
<b>Internal appeal</b>	means an appeal of an adverse <b>benefits</b> determination initiated by an <b>insured person</b> pursuant to the U.S. Department of Labor's claim procedure regulation, 29 C.F.R. 2560.503-1(h), or any similar claim procedures under applicable state or federal law.
<b>Loss</b>	means the following amounts incurred after <b>you</b> have reported a <b>claim</b> or <b>coverage enhancement</b> to <b>us</b> and with <b>our</b> consent: <ol style="list-style-type: none"> <li>1. damages or a judgment <b>you</b> are legally obligated to pay (including pre-judgment and post-judgment interest and awards of claimants' attorney fees);</li> <li>2. a monetary settlement agreed to by <b>you</b> and <b>us</b>;</li> <li>3. <b>claim expenses</b>;</li> <li>4. punitive damages, exemplary damages, and the multiple portion of multiplied damages to the full extent they are insurable under the law of any applicable jurisdiction that most favors coverage; and/or</li> <li>5. any other amounts <b>we</b> have explicitly agreed to pay under Section II. Coverage enhancements.</li> </ol> <p><b>Loss</b> does not include:</p>

## Fiduciary Coverage Part

- a. amounts for which **you** are not liable or for which the claimants are without legal recourse against **you**;
- b. civil or criminal fines or penalties, except **we** will pay:
  - i. civil penalties of up to 5% imposed under Section 502(i), or up to 20% imposed under Section 502(l), of the Employee Retirement Income Security Act of 1974, as may be amended;
  - ii. civil fines and penalties covered under Section II. Coverage enhancements A. Civil fines and penalties sublimit;
  - iii. civil fines and penalties if they are part of a covered **claim** under Section II. Coverage enhancements, C. HIPAA fines/penalties sublimit; or
  - iv. **voluntary compliance loss**;
- c. taxes or tax penalties (whether imposed by a federal, state, local, or foreign governmental authority);
- d. the cost of complying with equitable, injunctive, or any other form of non-monetary relief; or
- e. **benefits** due under the terms of a **plan**, unless recovery for such **benefits** arises out of a **fiduciary wrongful act** and is payable as the personal obligation of an **insured person**; however, **loss** will include a monetary award in, or fund for settling, a **claim** against any **insured** to the extent it alleges a reduction in the value of **plan** assets or a reduction in the value of the actual accounts of **plan** participants by reason of a change in value of the investments held by that **plan**, regardless of whether the amounts sought in such **claim** have been characterized as, or held by a court to be, **benefits**.

However, **we** will pay **claim expenses** to defend an otherwise covered **claim** seeking amounts excluded from **loss** in parts a through e above.

### New plan

means any plan, fund, trust, or program, whether subject to **ERISA** or not, that is created, formed, or acquired during the policy period stated in Item 2 of the Declarations as a result of an **insured organization's** acquisition of a **subsidiary**.

This Coverage Part will apply to a **new plan** only with respect to a **fiduciary wrongful act** occurring after the date of its creation, formation, or acquisition.

**New plan** does not include any multiemployer plan, cash balance plan, or employee stock ownership plan.

### Pollutants

means any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, mold, spores, fungi, soot, fumes, acids, alkalis, chemicals, germs, and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned, or reclaimed.

### Potential claim

means any acts, errors, or omissions of an **insured** or other circumstances reasonably likely to lead to a **claim** covered under this policy.

### Remediation expenses

means the reasonable and necessary fees, costs, and expenses incurred by **you** with **our** prior consent to correct an actual or potential breach of **your** fiduciary duties under **ERISA** with respect to any **plan**. However, **remediation expenses** does not include any fees, costs, or expenses associated with finding or assessing such actual or potential breach of fiduciary duty, or any compensation of **insured persons** or employees of an **insured organization**.

### Retention

means the amount stated as such under the Fiduciary Coverage Part section of the Declarations.

### Trustee insured organization

means a corporate trustee company that is:

1. established by an **insured organization** formed and operating in a **foreign jurisdiction**, or any predecessor of such **insured organization**;
2. duly appointed to act as a trustee of a **plan** in a **foreign jurisdiction**; and
3. sponsored solely by such **insured organization**.

**Voluntary compliance loss** means any:

1. **remediation expenses**;
2. **consulting fees**; or
3. other amounts,

paid by an **insured** with **our** prior consent to a governmental authority pursuant to a **voluntary settlement program** for the actual or alleged inadvertent non-compliance by a **plan** with any statute, rule, or regulation.

**Voluntary compliance loss** does not include any:

1. costs to correct the non-compliance, other than **remediation expenses**, or any other charges, expenses, taxes, or damages; or
2. fees, fines, penalties, or sanctions relating to a **plan** which, as of the inception of this policy or the inception of the first policy in an uninterrupted series of policies issued by **us** to **you** of which this policy is a renewal or replacement, any **insured** had knowledge of the actual or alleged inadvertent non-compliance.

**Voluntary settlement program**

means any voluntary compliance resolution program or similar voluntary settlement program administered by the U.S. Internal Revenue Service, the U.S. Department of Labor, or the Pension Benefit Guaranty Corporation, including but not limited to the Premium Compliance Evaluation Program, the Participant Notice Voluntary Correction Program, the Employee Plans Compliance Resolution System, the Audit Closing Agreement Program, the Voluntary Compliance Resolution Program, the Walk-in Closing Agreement Program, the Administrative Policy Regarding Self-Correction, the Tax Sheltered Annuity Voluntary Correction Program, the Delinquent Filer Voluntary Compliance Program, the Voluntary Fiduciary Correction Program, or any similar program administered by a governmental authority located outside the United States.

**You, your, or insured**

means a **named insured, subsidiary, plan, insured person, pension oversight committee, or affiliate**, as defined in Section III. Who is an insured.

### VIII. Other provisions affecting coverage

Worldwide coverage

- A. If a **claim** is made against **you** in a **foreign jurisdiction** resulting from a **fiduciary wrongful act** committed in such **foreign jurisdiction**, the provisions of the **foreign policy** most favorable to **you** will apply to that **claim**. Any provisions in the **foreign policy** will be compared to the same or similar provisions of this Coverage Part to determine which provisions are most favorable to **you**.

However, any provision of this Coverage Part intended to govern coverage worldwide will govern even in a **foreign jurisdiction**.

Order of payments

- B. In the event **loss** resulting from any **claim** covered by this Coverage Part exceeds the remaining available Limit of Liability, **we** will:
1. first pay **loss** on behalf of any **insured person**;
  2. then pay **loss** on behalf of any **plan**; and
  3. then pay **loss** on behalf of any **insured organization**.

**Your** bankruptcy or **insolvency** will not relieve **us** of any of **our** obligations to prioritize payments under this Coverage Part.

Plan termination

- C. If, before or during the **policy period**, an **insured organization** terminates, sells, or runs off a **plan**, coverage with respect to such **plan** under this Coverage Part will continue until the end of the **policy period**. However, this policy will cover only **claims** for **fiduciary wrongful acts** that took place prior to the date the **plan** was sold or run off, or, in the case of a terminated **plan**, prior to the date of the last asset distribution of such **plan**.

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State:	District of Columbia	Filing Company:	Hiscox Insurance Company Inc.
TOI/Sub-TOI:	17.0 Other Liability-Occ/Claims Made/17.0000 Other Liability Sub-TOI Combinations		
Product Name:	C-Suite Maintenance Filing		
Project Name/Number:	/		

## Supporting Document Schedules

Bypassed - Item:	Readability Certificate
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Consulting Authorization
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Copy of Trust Agreement
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Expedited SERFF Filing Transmittal Form
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	